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# City and County of San Francisco



RUTH ASTLE  
PRESIDENT

VIVIAN HAMMILL  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
JILL SCHLICHTMANN  
DENICE STEPHENSON  
WILLIAM VILLA

## Residential Rent Stabilization and Arbitration Board

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 7, 1992

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25 Van Ness Avenue, #70, Lower Level  
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### AGENDA

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ART AGNOS  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A.	2122 Grove St.	M001-60A
B.	3967 Sacramento St. #12	M001-87R
C.	1434-A - 26th Ave.	M001-61A

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

Ordinance Changes

IV. Remarks from the Public (cont.)

X. New Business

Personnel Matters - Executive Session  
Pursuant to Government Code Section 54957

XI. Appeal Hearings

6:00	A.	375 States St.	M001-74R (post. from 12/17/91)
6:30	B.	164 Hancock St.	M001-48A (acct. 12/17/91)

XII. Calendar Items

IX. Old Business (cont.)

XIII. Adjournment

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RUTH ASTLE  
PRESIDENT

VIVIAN HAMMILL  
VICE-PRESIDENT

ART AGNOS  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, January 7, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

Vice-President Hammill called the meeting to order at  
5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
JILL SCHLICHTMANN  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Hammill; How; McGoldrick; Rossoff; Schlichtmann; Stephenson.
Commissioner not Present:	Villa.
Staff Present:	Grubb; O'Hearn.

Commissioner Marshall appeared on the record at 5:46 p.m.  
Commissioner Carrico appeared at 6:06 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 17, 1991.  
(Rossoff/Schlichtmann: 5-0)

IV. Announcement and Remarks from the Public

Vice-President Hammill read a proclamation from the Mayor  
declaring January 7, 1992 as Ruth Astle day and presented it  
to former Commission President Astle.

Ellen Lyons, an attorney with Legal Assistance to the  
Elderly, also gave thanks to Ruth Astle.

V. Consideration of Appeals

A. 2122 Grove St. M001-60A

The landlord appeals the decision determining null and void  
a 24.5% increase in 1987 and an increase in 1988 imposed  
less than 12 months later. He raises numerical errors  
subsequently corrected by the hearing officer and contends  
that he should be entitled to other increases retroactively  
even though they were not actually imposed.

MSC: To deny the appeal. (McGoldrick/How: 5-0)

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B. 3967 Sacramento St. #12 M001-87R

The tenant appeals the denial of her petition alleging incorrect PG&E passthroughs heard after the Ordinance was amended to limit such challenges to the current passthroughs. Since the petition was filed two days before the effective date of the Ordinance amendment, she contends that it should not be applied to her case.

MSC: To deny the appeal. (Schlichtmann/How: 5-0)

C. 1434-A - 26th Ave. M001-61A

The landlord appealed the decision on the basis that she did not receive notice of the hearing because it apparently was lost in the mail. The hearing officer determined that a 6% increase imposed in January 1991, as well as another increase 8 months later, are null and void.

MSC: To remand the case to a hearing officer for another hearing. (Rossoff/How: 5-0)

VI. Communications

In addition to correspondence regarding hearings or appeals scheduled for consideration, the Board received the following communications:

A. The Rent Board statistics for November 1991; and

B. The Appeal Decision for 1369 Hyde St. heard on November 12, 1991 (No. M001-19A), approved and signed.

VII. Director's Report

The Executive Director reported on the status of the budget cycle. He also requested vacation leave from February 17, 1992 to February 21, 1992, which was approved by the Commissioners.

VIII. Old Business

A. The Commissioners received a revised draft of proposed amendments to the Rent Ordinance requested to provide an expedited hearing process for certain kinds of Rent Board petitions. It will be scheduled for public hearing on January 21, 1992 before submitting to the Board of Supervisors for their consideration.

IX. Appeal Hearing

A. 275 States St. M001-74R

This hearing, postponed from December 17, 1991, was accepted by the Board on November 26, 1991 in consideration of the

tenant's appeal. The tenant's petition for rent reduction due to the closing off of an attic previously used as living space was denied by the hearing officer who found that the tenant failed to establish any basis to reasonably expect that his rent included use of the attic.

The landlord was present and represented himself. The tenant was present with his attorney. Following the hearing, the Commissioners discussed the case and passed the following motion:

MSC: To find that the tenant is entitled to a corresponding rent reduction of \$100.00 per month commencing July 1, 1990 for the loss of attic space. (Carrico/McGoldrick: 5-0)

B. 164 Hancock St. M001-48A

This appeal hearing was postponed until the meeting of January 28, 1992.

X. New Business

At 7:45 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss personnel matters. They returned to their regular session at 10:00 p.m. and continued the matter to the next Board meeting.

VIII. Old Business (cont.)

B. The Commissioners discussed other proposed amendments to the Rent Ordinance which they had requested in 1990 concerning statutes of limitation for null and void increases, as well as other increases (banked and capital improvements). Also included in the original request was language limiting coverage to units occupied by tenants only as their principal place of residence. Following some discussion, the Commissioners continued this item to the next Board meeting.

XI. Calendar Items

January 14, 1992

3 appeal considerations

6:00 Appeal Hearing: 133 Buchanan St. M001-56A

Old Business: A. Ordinance Changes

B. Executive Session - Personnel Matters

C. Outreach Committee

January 21, 1992

1 appeal consideration

6:00 Public Hearing: expedited hearing amendments to the Rent Ordinance

XII. Adjournment

Vice-President Hammill adjourned the meeting at 10:15 p.m.





RUTH ASTLE  
PRESIDENT

VIVIAN HAMMILL  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 14, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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ART AGNOS  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

4/92  
TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
JILL SCHLICHTMANN  
DENICE STEPHENSON  
WILLIAM VILLA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 118-A - 27th St. M001-62A

B. 1560 McAllister St. M001-64A

C. 1180 Filbert St. #204 M001-63A

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

A. Ordinance Changes

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

6:00 133 Buchanan St. M001-56A (acpt. 12/17)

XII. Calendar Items

IX. Old Business (cont.)

B. Outreach Committee

C. Personnel Matters - Executive Session  
Pursuant to Government Code Section 54957

XIII. Adjournment  
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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, January 14, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

Vice-President Hammill called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:	Hammill; How; Rossoff.
Commissioners not Present:	Carrico, McGoldrick; Schlichtmann; Stephenson; Villa.
Staff Present:	Grubb; Ruiz.

Commissioner Marshall appeared on the record at 5:45 p.m. and  
left the meeting at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 7, 1992.  
(Rossoff/How: 4-0)

IV. Consideration of Appeals

A. 118-A - 27th Street M001-62A

On remand pursuant to appeal and stipulated judgment, the  
hearing officer found the landlord collected rent overpayments  
of \$19,421.70. The landlord appeals alleging that the property  
has always been exempt from the Rent Ordinance and that the  
decision would result in extreme hardship to the landlord.

MS: To accept the appeal on the issue of hardship  
only. (Marshall/Hammill)

Prior to voting on the motion, it was the consensus of the  
Board that this case be continued until the Board meeting of  
January 21, 1992 to confer with the City Attorney on the issue  
of jurisdiction.

B. 1560 McAllister Street #8 M001-64A

The tenant was granted rent reductions to correspond with  
decreased housing services (\$175.00) and incorrectly calculated  
utility passthroughs (\$66.10). On appeal, the landlord alleges  
that these issues had been decided by a final decision in two

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previous cases and that the legal principle of *res judicata* precludes another determination on these issues.

MSC: To deny the appeal. (Marshall/Rossoff: 4-0)

C. 1180 Filbert Street #204 M001-63A

The tenant was granted rent reductions to correspond with decreased housing services, mostly having to do with damage in her unit caused by severe leaks. In addition, the tenant's petition regarding the landlord's failure to repair and maintain was granted and the annual increase was deferred until the remaining leaks are fixed. On appeal the landlord alleges that the rent reduction is excessive and should not have commenced more than 12 months prior to the date the petition was filed because he has been making various repairs to the building to correct the problem.

It was the consensus of the Commissioners to continue consideration of this case until the meeting of January 21, 1992.

V. Communications

The Board received correspondence regarding 118-A - 27th Street scheduled for appeal consideration at this meeting.

VI. Director's Report

The Executive Director reported on the status of the budget cycle as presented in a letter from the Mayor, dated January 9, 1992. He also informed the Board that five persons had applied for the position of Rent Board Supervisor.

VII. Consideration of Allegation of Wrongful Eviction

1226 - 34th Avenue

M002-25E & K001-49E

A fire occurred in December 1988 which forced the tenant and her family to vacate the premises. Subsequent to the tenant's Report of Alleged Wrongful Eviction, the landlord's agent acknowledged the tenant's right to reoccupy the premises if the structure was repaired. A hearing was held and a Settlement Agreement was reached guaranteeing the tenant's rights under the provisions of the Rent Ordinance. In reliance on this agreement, the tenant withdrew her eviction report.

The property was sold and a new owner proceeded to build a 2-flat building. When the new owner bought the building, the settlement agreement was disclosed, but the new owner is not complying with the terms of the agreement to allow the tenant to reoccupy the building.

Staff recommends that the Commissioners refer this case to the  
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District Attorney and to write the landlord a letter informing him of his rights and duties as a successor in interest.

MSC: To accept the staff recommendation, but to make it clear that the landlord and/or his agent has failed to comply with the provisions of the Settlement Agreement. (Rossoff/How: 3-0)

VIII. Appeal Hearing

133 Buchanan Street #2 & #4 M001-56A

This case was accepted by the Board on December 17, 1991 in response to the landlord's appeal on the issue of the dates of owner-occupancy.

The landlord was present with his agent. The tenant was present and represented himself. Following the hearing, the Commissioners discussed the case and continued it until the meeting of January 21, 1992, with instructions to the staff to recalculate all banked increases.

IX. Old Business

A. At 7:15 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss personnel matters. They returned at 7:40 p.m. and continued the matter to the next Board meeting.

B. The Commissioners discussed other proposed amendments to the Rent Ordinance concerning statutes of limitation for null and void increases, as well as other increases (banked and capital improvements), and limiting application of the Ordinance only to units occupied by tenants as their principal place of residence. Following some discussion, the Commissioners continued this item to the next Board meeting.

X. Calendar Items

January 21, 1992

3 appeal considerations (including 2 cont. from 1/14)  
6:00 Public Hearing: Amendments to the Rent Ordinance  
Old Business:  
A. 133 Buchanan Street M001-56A (cont. 12/17)  
B. Executive Session: Personnel Issues  
C. Ordinance Changes.

January 28, 1992

2 appeal considerations  
6:00 Appeal hearing: 164 Hancock M001-48A (post. from 1/7)

XI. Adjournment

Vice-President Hammill adjourned the meeting at 8:05 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 21, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 118-A - 27th Street M001-62A (cont. from 1/14/92)
  - B. 1180 Filbert St. #204 M001-63A (cont. from 1/14/92)
  - C. 37 Mirabel Avenue M001-65A
- VI. Public Hearing  
Expedited Hearing Amendments to the Rent Ordinance.
- VII. Communications
- VIII. Director's Report
- IX. Consideration of Allegations of Wrongful Evictions
- X. Old Business
  - A. 133 Buchanan St. M001-56A (cont. from 1/14/92)
  - B. Executive Session: Personnel matters pursuant to  
Government Code Section 54957
  - C. Ordinance Changes
- IV. Remarks from the Public (cont.)
- XI. New Business
- XII. Calendar Items
- XIII. Adjournment

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, January 21, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

Vice-President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Carrico; Hammill; Marshall;  
Rossoff; Schlichtmann;  
Stephenson; Villa.  
Staff Present: Grubb; Wolf.

Commissioners How and McGoldrick appeared on the record at 5:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 14, 1992.  
(Carrico/Marshall: 5-0)

IV. Consideration of Appeals

A. 118-A - 27th Street M001-62A (cont. from 1/14/92)

On remand pursuant to appeal and stipulated judgment, the hearing officer found that the landlord collected rent overpayments in the amount of \$19,421.70. On appeal, the landlord alleged that the property had always been exempt from the Rent Ordinance and that the decision would result in extreme hardship to the landlord. At their meeting of January 14, 1992 the Commissioners decided to continue this case for one week to confer with the City Attorney on the issue of jurisdiction.

MSC: To accept the appeal and schedule a Board hearing on the issue of hardship to the landlord.  
(Marshall/How: 5-0)

B. 1180 Filbert Street #204 M001-63A (cont. from 1/14/92)

The tenant was granted rent reductions to correspond with decreased housing services, mostly having to do with damage in her unit caused by severe leaks. In addition, the tenant's petition regarding the landlord's failure to repair and maintain was granted and the annual

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increase was deferred until the remaining leaks are fixed. On appeal the landlord alleges that the rent reduction is excessive and should not have commenced more than 12 months prior to the date the petition was filed because he has been making various repairs to the building to correct the problem.

MSF: To deny the appeal. (Marshall/McGoldrick: 2-3; Carrico, How, Schlichtmann dissenting)

MSC: To accept the appeal and schedule a Board hearing on the issue of the amount of the rent reduction for the leaks only, and not regarding the time period involved. (Carrico/Schlichtmann: 3-2; Marshall, McGoldrick dissenting)

C. 37 Mirabel Avenue

M001-65A

The tenant's petition regarding the landlord's failure to repair was denied but a \$50 per month past rent reduction was granted due to the lack of a secure entry door in addition to an on-going \$50 per month reduction due to a broken heater. On appeal, the landlord asserts that: a reasonable amount of time should be allowed in order to make the repair; the rent reduction should be adjusted for partial use and terminated if access is refused; and once a repair is effectuated, there should be no 30-day notice requirement in order to reinstitute the reduced rental amount.

MSC: To deny the appeal.  
(Marshall/Schlichtmann: 4-1; Carrico dissenting.)

#### V. Public Hearing

Four individuals addressed the Board regarding proposed draft legislation concerning expedited hearings as follows:

Ralph Payne of the Apartment House Owners' Association stated that the Board should go even further in allowing stipulated agreements between parties; the 10% cap on capital improvement passthroughs should be eliminated; statutes of limitation are necessary; and corporate tenants should be precluded from jurisdiction.

Al Goodwin expressed his concern that the hearing officers abide by the parties' stipulated agreements; and raised several possible problems concerning the loss of the right to appeal.

Michael Harney of the Tenants' Union stressed the need for clear caveats and warnings so tenants can make an informed decision as to which process to choose; and also stated concerns regarding the lack of an appeal procedure.

Teresa Lowe from Self-Help for the Elderly was very concerned that parties could not appeal these orders.



VI. Director's Report

Executive Director Grubb reported that the District Attorney's Office has assigned another intern to Rent Board issues.

VII. Old Business

A. 133 Buchanan St. #2 & #4 M001-56A (cont. from 1/14/92)

The Commissioners reviewed staff's calculations regarding the amount of rent the tenants would pay if banking was allowed for periods of owner-occupancy and passed the following motion:

MSC: In the interests of fairness and justice, to allow banked increases as through the units had always been under rent control. (How/Rossoff: 3-0)

B. At 7:25 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss personnel matters and returned on the record at 7:40 p.m.

C. The Commissioners discussed other proposed amendments to the Rent Ordinance concerning statutes of limitation for null and void, banked and capital improvement increases. After some discussion, this matter was continued for two weeks.

VIII. Calendar Items

January 28, 1992

2 appeal considerations

6:00 Appeal hearing: 164 Hancock M001-48A (post. from 1/7)

Old Business:

A. Ordinance changes: expedited hearings

February 4, 1992

2 appeal considerations

6:00 Appeal hearing: 118-A - 27th St. M001-62A (accpt. 1/21)

Old Business: Ordinance changes: statutes of limitation

New Business: Election of Officers

IX. Adjournment

Vice-President Hammill adjourned the meeting at 8:10 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

January 28, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
  - V. Consideration of Appeals
    - A. 765 Sutter St. #405 M001-88R
    - B. 1034 Potrero Ave. #2 M001-89R
  - VI. Communications
  - VII. Director's Report
  - VIII. Consideration of Allegations of Wrongful Evictions
  - IX. Old Business
    - Ordinance Changes
  - IV. Remarks from the Public (cont.)
  - X. New Business
  - XI. Appeal Hearing
    - 6:00 164 Hancock M001-48A  
(post. from 1/7/92)
  - XII. Calendar Items
  - IX. Adjournment
- 0144M

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MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, January 28, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

Commissioner Marshall called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:

Carrico; How; Marshall;  
McGoldrick; Schlichtmann;  
Villa.

Commissioners not Present:

Hammill; Rossoff; Stephenson.

Staff Present:

Grubb; O'Hearn.

III. Approval of the Minutes

MSC: To approve the Minutes of January 21, 1992 as corrected on page 3 for the motion under item VII. A. to refer to banked increases as though the units had always been under rent control. (How/Carrico: 5-0)

IV. Consideration of Appeals

A. 765 Sutter St. #405 M001-88R

The tenant appeals the dismissal of his petition. He failed to appear at the hearing because he put the wrong date in his calendar.

MSC: To remand the case to a Hearing Officer for a hearing. (Schlichtmann/McGoldrick: 5-0)

B. 1034 Potrero Ave. #2 M001-89R

The tenant submitted his appeal thirteen days late indicating he had not received the dismissal of a portion of his petition which was to be heard on remand.

MSC: To find good cause for late filing of the appeal. (How/Carrico: 5-0)

The Board originally remanded the case solely for further hearing on the dates of rent increases pursuant to the landlord's appeal. The tenant failed to appear at the remand hearing apparently misunderstanding the Board's notice of action on the landlord's appeal.

MSC: To remand the case to the Hearing Officer again solely for further hearing on the dates of rent increases.  
(How/Carrico: 5-0)

V. Communications

The Commissioners received a staff report on null and void overpayments, as requested by the Commissioners.

VI. Director's Report

A. The Executive Director reported that the Rent Board President and Vice-President were requested to meet with the Mayor.

B. The Rent Board has been directed to prepare two budgets: one at 90% funding; and one at 100%.

C. The 1099's for the Commissioners are due out this week.

D. The Commissioners received a City Attorney's opinion on open meeting laws.

VII. Old Business

The Commissioners discussed the draft Ordinance amendments for an expedited hearing process. Following the public hearing last week and discussions with staff, some revisions will be requested before forwarding the proposal to the Board of Supervisors.

Commissioner Marshall met with Commissioner Rossoff and distributed draft language on a proposed statute of limitations on liability for rent overpayments.

VIII. Remarks from the Public

Al Goodwin commented on inconsistencies of Hearing Officers abiding by stipulations by the parties.

IX. New Business

Commissioner Schlichtmann requested that the Board discuss personnel committee issues and procedures at the next meeting that Vice-President Hammill is present.

X. Appeal Hearing

164 Hancock

M001-48A

This hearing which was postponed from January 7, 1992 was postponed again until February 25, 1992 at the request of the parties who are working on a settlement.



X. Calendar Items

February 4, 1992

2 appeal considerations

6:00 Appeal hearing: 118-A - 27th St. M001-62A (acct. 1/21)  
Old Business: Ordinance changes: statutes of limitation  
New Business: Personnel Committee issues  
Election of Officers

February 11, 1992

2 appeal considerations

6:00 Appeal hearing: 1180 Filbert St. M001-63A (acct. 1/21)

February 18, 1992 - No meeting.

XI. Adjournment

Commissioner Marshall adjourned the meeting at 6:50 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

February 4, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 1530 Gough St. #205 M001-66A & M001-90R
  - B. 540 Leavenworth St. M001-67A
  - units 509 & 504
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - Ordinance Changes (statutes of limitation)
- IV. Remarks from the Public (cont.)
- X. New Business
  - A. Personnel Committee Issues
  - B. Election of Officers
- XI. Appeal Hearing
  - 6:00 118-A - 27th St. M001-62A (accpt. 1/21)
- XII. Calendar Items
- XIII. Adjournment

0146M





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, February 4, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

Vice-President Hammill called the meeting to order at 5:30 p.m.

II. Roll Call

Commissioners Present:

Hammill; How; Marshall;  
McGoldrick; Rossoff;  
Schlichtmann; Villa.  
Grubb; Ruiz.

Staff Present:

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Commissioner Carrico appeared on the record at 5:46 p.m. and  
Commissioner Stephenson at 5:50 p.m. Commissioner Carrico left the  
meeting at 6:55 p.m. and Commissioner Stephenson at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 28, 1992.  
(Marshall/How: 4-0)

IV. Remarks from the Public

A. Robert Bender made comments regarding the period of years on  
the proposed statute of limitations on liability for rent overpayments.

B. Michael Harney stated that tenant's rights should be  
protected in the enactment of the proposed statute of limitations. He  
was informed that there would be a public hearing.

V. Consideration of Appeals

A. 1530 Gough St. #205

M001-66A & M001-90R

On remand pursuant to appeal by the landlord, the tenant was granted a  
rent reduction of \$250.00 for lack of heat in her unit. Both the  
landlord and tenant appeal the remand decision of the hearing officer.  
The landlord appeals alleging that he tried to comply with the law and  
the tenant appeals alleging that the rent reduction is substantially  
lower than the amount granted in the previous decision.

MSC: To deny both appeals. (Marshall/Rossoff: 5-0)

B. 540 Leavenworth Street #509 & #504 M001-67A

Two tenants were granted rent reductions to correspond with decreased housing services, mostly having to do with a faulty elevator. On appeal, the landlord alleges that he did not receive notice of the hearing because it was sent to the wrong address.

MSC: To remand the case to the same hearing officer for another hearing. (Carrico/How: 5-0)

#### VI. Communications

The Commissioners received the following correspondence:

- A. A memo from the Shop Steward, Ernestine Cade-Hill, regarding proposed budget proposals.
- B. A revised draft of the Ordinance amendment for an expedited hearing process.
- C. A copy of a letter from the City Attorney to the Department of Parking and Traffic regarding the administrative powers of the Parking and Traffic Commission.

#### VII. Director's Report

The Executive Director read a summary of laches to the Commissioners. Staff was directed to seek advice from the City Attorney's Office regarding the interpretation of reasonableness.

#### VIII. Old Business

Commissioners Hammill and Schlichtmann gave a report of the meeting with the Mayor.

The Commissioners discussed the revised draft Ordinance amendments for an expedited hearing process and the submission process of the proposal to the Board of Supervisors. Commissioner Marshall requested that it be scheduled for next week's meeting to allow for review of the draft.

The Commissioners discussed the draft language on the proposed statute of limitations on liability for rent overpayments.

#### IX. Appeal Hearing

118-A - 27th Street

M001-62A

On remand pursuant to appeal and stipulated judgment, the hearing officer found that the landlord collected rent overpayments in the amount of \$19,421.70. On appeal, the landlord alleged that the

property had always been exempt from the Rent Ordinance and that the decision would result in extreme hardship to the landlord.

At their meeting of January 21, 1992, the Commissioners accepted the appeal for a Board Hearing only on the issues of hardship and fairness to the landlord.

The landlord was present with her attorney, a witness, and an interpreter. The tenant was present with his attorney. Following testimony and argument from both sides, the record was left open until March 3, 1992, to allow the landlord time to submit additional documentation.

#### IV. Remarks from the Public (cont.)

Al Goodwin commented on the notion of laches and the development of a mechanism that would make it possible for landlords and tenants to resolve illegal rent increases between themselves. He offered to submit ideas to the Board.

#### XI. New Business

A. The Executive Director and Commissioners discussed the status of the Rent Board Budget. The Commissioners recommended that an across-the-board furlough be submitted to accomplish a 90% budget.

B. The Personnel Committee issues and election of officers items were postponed until the next Board meeting.

#### XII. Calendar Items

##### February 11, 1992

2 appeal considerations

6:00 Appeal hearing: 1180 Filbert #204 M001-63A (accpt. 1/21)

Old Business: Ordinance changes: statute of limitations  
expedited hearings process

New Business: Personnel Committee issues  
Election of Officers

February 18, 1992 - No meeting.

##### February 25, 1992

5 appeal considerations

6:00 Appeal hearing: 164 Hancock St. M001-48A (post. from 1/7 &  
1/28)

#### XIII. Adjournment

Vice-President Hammill adjourned the meeting at 9:15 p.m.







NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

February 11, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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SF  
R52  
#1  
2/11/92

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

FEB 11 1992

III. Approval of the Minutes

SAN FRANCISCO  
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IV. Remarks from the Public

V. Consideration of Appeals

A. 1428 Guerrero St. #2

M001-91R

B. 493 Haight St. #1

M001-68R

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

Ordinance Changes: Expedited Hearings Process  
Statutes of limitation

IV. Remarks from the Public (cont.)

X. New Business

A. Personnel Committee Issues

B. Election of Officers

XI. Appeal Hearing

6:00 1180 Filbert St. #204

M001-63A (accpt 1/21)

XII. Calendar Items

IX. Adjournment

0149M





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, February 11, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\* DOCUMENTS DEPT. \*\*\*\*\*

FEB 21 1992

I. Call to Order

Vice-President Hammill called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Hammill; Marshall; McGoldrick;  
Rossoff; Schlichtmann; Villa.  
Commissioners not Present: How; Stephenson.  
Staff Present: Grubb; Wolf.

Commissioner Carrico appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 4, 1992 with the  
following correction: Item A under section IV, Remarks  
from the Public, should read: "Robert Pender made  
comments . . . ". (Marshall/Villa: 5-0)

IV. Consideration of Appeals

A. 1428 Guerrero St. #2 M001-91R

The tenants were granted a one-time \$140 rent reduction to correspond with decreased housing services, including lack of weatherproofing; lack of security; a "moat" around the back of the building; and a general decrease in the maintenance and cleaning of the common areas. On appeal, the tenant maintains that the \$140 amount listed in the petition should be a monthly amount, retroactive to the date the new owners took possession of the property.

MSC: To accept the appeal and remand the case to the same  
Hearing Officer with the sense of the Board being that  
the petition is sufficiently ambiguous that the \$140  
figure could be interpreted as a monthly amount.  
(Marshall/McGoldrick: 5-0)

B. 493 Haight St. #1 M001-68R

The tenant was granted rent reductions to correspond with decreased housing services, specifically: \$150 per month due to a lack of security resulting in drug dealers and other intruders gaining access to the premises; and \$50 per month due to severe cockroach

infestation. The landlord failed to appear at the hearing, having requested a postponement based on the necessity of appearing at previously scheduled depositions on the same day. As the landlord failed to provide the requested documentation regarding the scheduling conflict, the postponement request was denied. On appeal, the landlord alleges that this denial was unreasonable, and provides documentation regarding attempts to remedy the problems.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

#### V. Communications

The Commissioners received the following communications:

A. The monthly workload statistics.

B. A letter from Alfred Goodwin recommending a change in the Ordinance to allow landlords to adjust past overcharges without them being deemed null and void.

C. A copy of the Tenant Times.

#### VI. Appeal Hearing

1180 Filbert Street #204

MO01-63A

Pursuant to a petition based on decreased housing services, the tenant was granted a \$150 monthly rent reduction due to leaks that resulted in wet carpeting, mildew and mushrooms in 3 areas in his unit. On appeal, the landlord alleged that the amount and duration of the rent reduction were excessive, and the Board accepted the appeal for hearing on the issue of the amount only.

The landlord was represented by his property manager and attorney; the tenant represented himself. Testimony focused on the extent of the problem, the landlord's repair attempts, and the amount of rainfall over the two-year period. After discussion and review of the evidence, the Commissioners passed the following motion:

MSC: To determine that the rent reduction shall be \$100 per month for the two-year period.  
(Schlichtmann/McGoldrick: 5-0)

#### VII. Old Business

The Commissioners voiced their concurrence with the revised draft Ordinance amendments providing for an expedited hearing process. The Board discussed language drafted by Commissioner Marshall regarding proposed statutes of limitation on liability for rent overpayments. Commissioner Rossoff volunteered to draft a third alternative, setting a 6-year statute for rent overpayments, capital improvements, banking and adjustment of base rents. This issue will be discussed further at the February 25th Board meeting, and a Public Hearing will be held on March 10, 1992.

VIII. New Business

A. The Commissioners received a letter from Shop Steward Ernestine Cade-Hill regarding the desirability of staff furloughs over layoffs as a means of effectuating required budget cuts. The Executive Director informed the Board that this will be the approach he will take in his budget proposal.

B. As there are currently no personnel issues pending, the Board's Personnel Committee was disbanded until the need should arise.

C. The Board elected new officers, as follows: Commissioner Schlichtmann nominated Commissioner Hammill for President and Commissioner Marshall nominated Commissioner Schlichtmann for Vice-President. Commissioner Rossoff seconded both nominations, which were passed by acclamation.

IX. Calendar Items

February 18, 1992 - No meeting

February 25, 1992

6 appeal considerations

Old Business: Ordinance changes: statutes of limitation

X. Adjournment

President Hammill adjourned the meeting at 8:35 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

February 25, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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DOCUMENTS DEPT.

FEB 21 1992

PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 466 Vallejo St. M001-92R
  - B. 3840 Folsom St. #1 M001-69A
  - C. 87-A Crescent Ave. M001-70A
  - D. 2715 Franklin St. #4 M001-93R
  - E. 3044 - 24th St. M001-71A
  - F. 793-A & 793-C Valencia St. M001-72A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - Ordinance Changes: Statutes of Limitation
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
- XII. Calendar Items
- XIII. Adjournment

0150M







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, February 25, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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MENTS DEPT

2 - 1992

I. Call to Order

President Hammill called the meeting to order at 5:34 p.m.

II. Roll Call

Commissioners Present:	Carrico; Hammill; How;
	Stephenson; Villa.
Commissioners not Present:	Marshall; Schlichtmann.
Staff Present:	O'Hearn.

Commissioners Rossoff and McGoldrick appeared on the record at 5:40 and 5:54 p.m., respectively.

III. Approval of the Minutes

MSC: To approve the Minutes of February 11, 1992.  
(Carrico/Villa: 4-0)

Staff corrected the appeal number on page 1, item IV.B. to M001-68A, instead of M001-68R.

IV. Consideration of Appeals

A. 466 Vallejo St. M001-92R

The tenant petitioned regarding alleged illegal rent increases, but failed to appear at the properly noticed hearing. The petition was therefore dismissed. The tenant appeals, apologizing for a calendaring mistake which caused him to miss the hearing, and asserting that the property is not the owner's principal place of residence.

MSC: To deny the appeal. (Carrico/How: 4-0)

MSC: To excuse Commissioner How from voting on the remainder of the appeal considerations. (McGoldrick/Stephenson: 4-0)

B. 3840 Folsom St. #1 M001-69A

The landlord's petition for capital improvement certification was granted, resulting in a \$644.68 monthly passthrough for one unit. However, the imposition of the 10% limit under Rules and Regulations Section 7.12(d) results in a first year monthly

passthrough of \$42.50. On appeal, the landlord's attorney asks that an increase to \$1,000 per month be allowed, due to the existence of "extraordinary circumstances" in that the unit has been completely rehabilitated and code violations remedied.

MSC: To accept the appeal for hearing before the Commissioners to consider any extraordinary circumstances and financial hardship to either party. (Carrico/Villa: 3-1; Stephenson dissenting)

C. 87 Crescent Ave. #A M001-70A

The tenant's petition regarding illegal rent increases was granted and the Hearing Officer determined \$1,725.00 in rent overpayments. The landlord appeals on the grounds that the Hearing Officer was one-sided and unfair.

MSC: To deny the appeal. (Stephenson/McGoldrick: 4-0)

D. 2715 Franklin St. #4 M001-93R

The landlord's petition for capital improvement certification was granted, in part. The tenant of unit #4, who failed to appear at the hearing, appeals the \$72.46 monthly passthrough for a new gas furnace in her unit. She claims that illness prevented her from attending the hearing, and that the new heating system is inefficient, noisy and expensive. The passthrough was denied for the tenant who did appear at the hearing and objected to the installation of the furnace in her unit because the landlord could not prove that the prior steam heater needed replacement.

In response to the tenant's appeal, the landlord submitted an appeal contesting the denial of the heater passthrough to unit #2.

MSC: To continue the tenant's appeal for 2 weeks, and consolidate it for consideration with the landlord's appeal. (Carrico/McGoldrick: 3-1; Stephenson dissenting)

E. 3044 - 24th St. M001-71A

The tenant's petition regarding illegal rent increases was granted and the Hearing Officer determined \$801.00 in rent overpayments due to an improper increase in May 1991. On appeal, the landlord alleges that Rent Board staff computed the increase amount he imposed in response to a summary petition in July 1990. However, he imposed the allowable banked increase several months later and added another annual increase less than 12 full months after the anniversary date.

MSC: To deny the appeal. (Stephenson/McGoldrick: 4-0)

F. 793 Valencia St. #A & #C M001-72A

The landlord's petition for rent increases due to capital improvements and increased operating expenses was granted; the requested increase due to comparables was denied. On appeal, the landlord maintains that the Hearing Officer erred regarding the anniversary dates; and introduces new evidence of comparable rents for units in the vicinity with less dissimilar lengths of tenancy. The landlord now requests that the rents be increased from \$344.00 to \$706.71, instead of \$912.00, based on comparables.

MSC: To remand the case to the Hearing Officer only for review of the record concerning any notice of the proposed increase given after the petition was filed in order to determine whether a clerical or numerical correction to the decision is necessary.  
(Carrico/Villa: 4-0)

V. Communications

The Commissioners received the following communications:

A. A copy of a letter of warning from the District Attorney to the landlords of 1427-33 South Van Ness Avenue;

B. Documentation for the appeal hearing held on February 4th concerning 118-A - 27th Street, to be decided at the meeting of March 3rd;

C. Fiscal year statistics on all filings with the Rent Board; and

D. Written appeal decisions for 275 States St. heard on January 7th and 1180 Filbert St. heard on February 11th, both approved and signed with corrections to the Filbert St. case.

VI. Director's Report

The Deputy Director reported that the Executive Director has returned from vacation and is attending a 3-day management workshop by the Civil Service Commission. She also reported that Hearing Officer Pickman-Thoon will be returning from her leave of absence next week.

The Deputy Director also informed the Commissioners about her discussion with the Deputy City Attorney concerning the meaning of "reasonableness" in the context of laches or other equitable defenses.

VII. Remarks from the Public

Maurice Pinto, the landlord-appellant for the case at 3044 - 24th St., complained about advice given to him by the Board counselors.

VIII. Old Business

Commissioner Rossoff distributed written language on the concept of a global statute of limitations of 6 years from the date of the inception of any right under the Rent Ordinance. There was some discussion resulting in other possible proposals. President Hammill will prepare a draft for the next meeting.

IX. Calendar Items

March 3, 1992

6 appeal considerations

Old Business: Ordinance changes: statute of limitations

March 10, 1992

8 appeal considerations (including 1 cont. from 2/25)

6:00 PUBLIC HEARING - Statute of Limitations Amendments to the Rent Ordinance

March 17, 1992 - NO MEETING.

X. Adjournment

President Hammill adjourned the meeting at approximately 7:30 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

March 3, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 3475 - 16th St. #4 M001-94R
  - B. 50 Golden Gate Ave. #688 M001-98R
  - C. 530 - 6th Ave. #3 M001-96R
  - D. 255 Steiner St. #104 M001-97R
  - E. 638 - 17th Ave. (lower) M001-73A & M001-95R
  - F. 3245 - 25th St. M001-74A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
  - A. 118-A - 27th St. M001-62A  
(heard on 2/4/92)
  - B. Ordinance Changes - Statutes of Limitation
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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0153M







MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, March 3, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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DOCUMENTS DEPT.

Call to Order

President Hammill called the meeting to order at 5:37 p.m.

II. Roll Call

Commissioners Present: Hammill; Marshall; Rossoff;  
Schlichtmann; Stephenson;  
Villa.  
Commissioners not Present: Carrico; McGoldrick.  
Staff Present: Grubb; Ruiz

Commissioner How appeared on the record at 6:00 p.m. Commissioner  
Marshall left the meeting at 6:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 25, 1992.  
(Rossoff/Villa: 5-0)

IV. Remarks from the Public

A. Al Goodwin made comments regarding the proposed statutes  
of limitation.

B. A tenant petitioner for a case being considered by the  
Board asked whether his testimony would affect the Board's action.  
He was informed that it would not.

C. The landlord appellant for the case at 638 - 17th Avenue  
made comments regarding her case.

D. The daughter of the landlord appellant for the case at  
536 - 5th Avenue asked questions regarding the appeals procedure.

V. Consideration of Appeals

A. 3475 - 16th St. #4 M001-94R

The landlord's petition for capital improvement certification was  
granted, and the tenant in unit #4 was assessed a \$12.43 monthly

DOCUMENTS DEPT.

MAR 12 1992

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passthrough for the costs of painting the building. The tenant appeals, claiming that: the costs are excessive and undocumented; the unlicensed laborer who performed the work is the landlord's brother; costs for painting another structure were included in the petition; and that paying the passthrough would cause him financial hardship.

MSC: To accept the appeal and schedule a Board hearing on the issue of hardship only. (Rossoff/Marshall: 5-0)

B. 50 Golden Gate #608 M001-98R

The tenant's petition regarding decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims that she is taking medication that makes her fatigued, which is why she arrived at the Rent Board office 20 minutes late on the morning of the scheduled hearing.

MSC: To accept the appeal and remand the case for a new hearing. (Rossoff/Villa: 5-0)

C. 530 - 6th Ave. #3 M001-96R

The tenant's petition for rent reduction due to the loss of storage space was granted and the hearing officer determined that \$42.50 per month was owed commencing mid-1989 (\$1,317.50). As the tenant lost the space in 1985, he appeals that the rent reduction should commence that date. However, the evidence showed that the tenant had little need for the space prior to mid-1989, but that from that time forward, he was forced to rent alternative storage space.

MSC: To deny the appeal. (Rossoff/Marshall: 5-0)

D. 255 Steiner St. #104 M001-97R

The tenant's appeal of the hearing officer's decision was filed six days late. The tenant claims that the untimeliness of his submission was due to: non-receipt of the decision; the fact that he needed additional time to compile his records; and the stress he was under due to pending open heart surgery.

MSC: To find good cause for the late filing of the appeal. (Rossoff/Villa: 5-0)

The landlord's petition for certification of the costs of re-wiring six units in the subject building was granted by the hearing officer. One tenant appeals, alleging that he has been paying PG&E bills since 1983 that are the landlord's responsibility under his rental agreement. In response, the landlord provides a copy of a settlement agreement regarding this issue entered into in 1988, at which time the tenant was represented by counsel.



MSC: To deny the appeal. (Rossoff/Villa: 5-0)

E. 638 - 17th Ave., Lower M001-95R & M001-73A

The tenant's appeal of the hearing officer's decision was filed one day late. The tenant maintains that he had not intended to appeal the decision unless his landlord did so, that upon inquiring with Rent Board staff he found out that the landlord had appealed on February 11th, and that he was incorrectly advised by staff that he had until the next day to file.

MSC: To find good cause for the late filing of the appeal. (Marshall/Rossoff: 5-0)

The tenant petitioned regarding decreased housing services and was granted \$115 per month due to lack of heat, \$75 per month due to inadequate wiring and \$30 per month due to leaky faucets. On appeal, the tenant maintains that the reduction for heat should go back to the inception of his tenancy and that he should have been granted an additional rent reduction because of the landlord's use of a portion of the garage for storage. The landlord also appeals, asserting that the tenant refused to provide access for repairs and that rent and late charges owed by the tenant should be offset from the \$2,790.00 in rent reductions determined by the hearing officer.

MSC: To deny both the landlord's and tenant's appeal. (Marshall/Rossoff: 5-0)

F. 3245 - 25th St. M001-74A

In October, 1990, the Rent Board Commissioners voted to defer a \$50.03 capital improvement passthrough for this tenant for one year, subject to review of his continuing financial circumstances. Upon the landlord's imposition of the passthrough in November, 1991, the tenant petitioned for further deferral of the amount due to continuing financial hardship. The hearing officer granted the tenant's petition, and deferred the passthrough for an additional year. The landlord appeals, maintaining that the hearing officer exceeded her authority.

MSC: To accept the appeal and schedule a Board hearing on the issue of hardship only. (Marshall/Hamill: 3-2; Rossoff/Villa dissenting)

#### VI. Communications

The Commissioners received the following communications:

A. The appeal decision for the case at 133 Buchanan #2 and 4, heard on January 14, 1992, which was approved and signed; and

B. Correspondence from Mission Housing Development Corporation.

VII. Director's Report

A. The Executive Director reported that petitions filed with the Rent Board are being heard within 30 days of filing.

B. The Director also informed the Commissioners that he had received a phone call from an attorney requesting information from the Commissioners regarding the 10% cap on capital improvement passthroughs, when it went into effect and how it may have affected the outcome of a decision heard by the Rent Board.

C. The Director reported on the status of the budget for the next fiscal year.

VIII. Old Business

A. 1118-A - 27th St. M001-62A (cont. from 2/4/92)

The Commissioners reviewed documentation submitted by the landlord to substantiate her appeal on the issue of hardship and passed the following motion:

MSC: To uphold the hearing officer's decision; to find hardship for the landlord; to set up a special payment plan for the tenant to pay only \$300.00 a month and to offset the balance of the monthly rent against the amount owing until the full amount is paid providing that should the tenancy be terminated before the full amount is offset, the balance of the amount owed would become due. The issue of laches was considered and found not applicable in this case because the landlord acted with unclean hands.  
(Marshall/Rossoff: 5-0)

B. The Commissioners discussed the proposed statute of limitations on liability for rent overpayments. President Hammill distributed draft proposals for establishing statutes of limitations for various provisions in addition to the existing proposals submitted for the public hearing to be held on March 10, 1992.

C. The Commissioners discussed what they believed to be unethical conduct on the part of an attorney involved in a case before the Board. The issue of what action the Board should take, if any, was put over for one week.

D. The Commissioners requested that the Director inquire as to the applicability of the Brown Act to remarks from the public prior to making a decision on appeals.

IX. Calendar Items

March 10, 1992

Public Hearing - Statutes of Limitation

8 appeal considerations

Old Business - Legal ethics - (118A - 27th Street)

Application of the Brown Act

March 17, 1992 - NO MEETING

March 24, 1992

3 appeal considerations

6:00 Appeal Hearing: 3245 - 25th St. M001-74A (accpt. 3/3/92)

IV. Adjournment

President Hammill adjourned the meeting at 7:02 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
March 10, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

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III. Approval of the Minutes

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IV. Remarks from the Public

V. Consideration of Appeals

- |    |                           |  |
|----|---------------------------|--|
| A. | 2715 Franklin St. #2 & #4 | M001-76A and M001-93R<br>(cont. from 2/25) |
| B. | 4796 Mission St.          | M001-75A and M001-99R<br>through M002-06R  |
| C. | 1100 Sacramento St.       | M001-78A                                   |
| D. | 13004 Lombard St.         | M002-08R                                   |
| E. | 2262-64 Francisco St. #9  | M002-07R                                   |

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

- |    |                                     |
|----|-------------------------------------|
| A. | Attorney ethics - 118-A 27th Street |
| B. | Discussion of the Brown Act         |

IV. Remarks from the Public (cont.)

X. New Business

XI. Public Hearing

6:00 Statute of Limitations Amendments to the Rent Ordinance

XII. Calendar Items

IX. Adjournment

0155M





MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

Tuesday, March 10, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
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JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Hammill; How; Marshall; Schlichtmann.
Commissioners not Present:	Stephenson; Villa.
Staff Present:	Grubb; Wolf.

Commissioner Carrico appeared on the record at 5:40 p.m.;  
Commissioner Rossoff appeared at 5:44 p.m.; and Commissioner  
McGoldrick arrived at 5:47 p.m. Commissioner Schlichtmann left  
the meeting at 7:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 3, 1992 with the  
following corrections: On page 3, the motion  
regarding the case at 3245 - 25th St. should  
read: "To accept the appeal and schedule a  
Board hearing on the issue of landlord hardship  
only." (addition underlined) Also, on page 4,  
Item A under Old Business, the address should  
read 118-A - 27th St. (Marshall/How: 4-0)

IV. Consideration of Appeals

A. 2715 Franklin St. #2 & #4 M001-76A & M001-93R  
(cont. from 2/25)

The landlord's petition for capital improvement certification  
was granted, in part. The tenant of unit #4, who failed to  
appear at the hearing, appealed the \$72.46 monthly passthrough  
for a new gas furnace in her unit. She claimed that illness  
prevented her from attending the hearing, and that the new  
heating system is inefficient, noisy and expensive. The  
passthrough was denied for the tenant in unit #2, who had  
appeared at the hearing and objected to the new furnace because  
the landlord could not prove that the prior steam heater needed  
replacement.



The basis of the landlord's appeal regarding unit #2 is that he failed to present evidence regarding the necessity of replacement of the steam heat because the hearing officer apprised the tenant that her remedy would be to file a decreased services petition. The landlord also maintains that denial of the passthrough rewards the tenant out of proportion to any actual losses she may have suffered.

MSC: To accept both the landlord's and tenant's appeals and remand the case for a new hearing.  
(How/Carrico: 5-0)

B. 4796 Mission St. M001-75A and M001-99R  
through M002-06R

The appeals of six tenants were filed four days late. Their attorney explains that, as the appeal deadline fell on a Saturday, he assumed the deadline to be extended to the next business day even though the decision states otherwise. As that Monday was a holiday, he filed the appeal on the following Tuesday.

MSC: To find good cause for the late filing of these appeals. (Marshall/How: 5-0)

The landlord's petition for rent increases for six units based on capital improvements and increased operating expenses was granted, in part, by the hearing officer. However, the operating expense and annual increases were deferred 5 months due to the landlord's failure to repair. On appeal, the attorney for six tenants claims that the hearing officer's allowance of the increases as of December 1, 1991 was based on false submissions by the landlord attesting to resolution of the problems, and that the tenants never received copies of such statements until after the decision was rendered.

Six tenants were granted rent reductions ranging from \$25 to \$35 per month due to the conversion from landlord-supplied steam heat to electric heat paid for by the tenants. The landlord appeals, maintaining that no housing services were decreased, as the tenants still had heat, and that the leases provided that the tenants pay for all utilities. He also asserted that the amount of the rent reductions was excessive.

MSC: To accept the landlord's appeal and remand the case for a new hearing on the issue of the amount of the rent reductions only.  
(Marshall/Schlichtmann: 5-0)



MSC: To accept the tenants' appeals and remand the case for a new hearing on the issue of when the repairs were effectuated.  
(Marshall/McGoldrick: 5-0)

C. 1100 Sacramento St. M001-78A

The landlord's petition for certification of capital improvements was granted, in part, resulting in \$131.22 monthly passthroughs for 33 units. The hearing officer denied the costs of waterproofing the roof garden, finding that it did not benefit the tenants, and the landlord asks to be allowed to re-submit this work at a later date without prejudice. Additionally, the landlord claims that costs that were denied were part of a larger project, yet unfinished, that will be the subject of a future capital improvement petition.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

D. 1304 Lombard St. M002-08R

The tenant petitioned for deferral of the annual rent increase due to the landlord's failure to repair cosmetic damage to the ceiling of her unit due to water leaks. The petition was denied, as the hearing officer found that the damage was not in violation of state or local law. On appeal, the tenant maintains that the hearing officer erred in failing to apply California Civil Code Sections 1941-42; and that, although the landlord stated that he paints when units are vacated, he failed to do so when she changed units in the building. Additionally, although the hearing officer disclosed at the hearing that the landlord was a friend of her parents, the tenant now raises this as a conflict of interest.

MSC: To accept the appeal and remand the case for a new hearing. (Carrico/McGoldrick: 5-0)

E. 2201 Francisco St. #9 M002-07R

The landlord's petition for certification of the costs of disaster-related repairs was granted, resulting in a \$64.92 monthly passthrough. One tenant appeals, alleging that the landlord may have been compensated by insurance; and that since her unit only sustained \$400.00 in damage, she should not be assessed the same passthrough as tenants in units that sustained more damage.

It was the consensus of the Board to continue this case for two weeks in order to check with the hearing officer regarding the issue of insurance compensation.

V. Public Hearing

From 6:10 p.m. to 7:00 p.m., the following individuals addressed the Board regarding the 4 draft proposals for adding Statutes of Limitation to various sections of the Ordinance:

Robert De Vries stated that he believed proposal (d) to be the best compromise, although he felt that limiting recovery for rent overpayments would encourage non-compliance with the law.

Cary Gold also reluctantly supported proposal (d), but stated that there also should be a 4-year statute on capital improvements and 6 years for everything else, including evictions.

Robert Pender stated his belief that the law is unfair to both sides; it should be thrown out and the Board should start all over.

Alfred Goodwin admonished the Board that landlords are not necessarily any more sophisticated regarding the law than are tenants. He supported setting a time limit and cutting off everything prior to that date, including readjustment of base rent. He pointed out that a 4-year statute would make large capital improvement projects difficult.

Brian Doohan addressed the special needs of the non-English speaking population and stated that, without enforcement, the law won't be obeyed.

Kim Lo, through his interpreter, Angela Chu, expressed his belief that the most important aspect of the rent law is the roll-back of illegal rents. He expressed his support for putting the 10% cap on capital improvement passthroughs into the Ordinance.

Ralph Payne, representing the Apartment House Owners' Association, commended the Board's efforts on this issue. He stated that his organization supports option (b), but believes that 4 years is too long.

Gerta Fisk stated her feeling that it is never too late to correct an error.

Mitchell Omerberg of the Affordable Housing Alliance reminded the Board of the intent behind the null and void provisions of the law. He expressed his concern that base rents continue to be corrected.

Peter Euteneuer advised the Commissioners not to limit banking; landlords should have the right to recoup increases not given should tenants' circumstances change.

Jan Williams stated that good faith is the bottom line, but she would resent it if her landlord did not have to correct a mistake in her rental amount.

After closing the public hearing, the Commissioners decided to consider the testimony they had heard and continue this issue for two weeks.

#### VI. Communications

The Commissioners received the monthly workload statistics and a memo from hearing officer Alicia Wicks regarding the case at 2262-2264 Bryant Street (M001-77A).

#### VII. Director's Report

The Executive Director reported as follows:

A. The Commissioners' Economic Interest statements are due by April 1st.

B. Regarding the Brown Act, Deputy City Attorney Pennypacker's opinion is that the public must be allowed to speak on agenda items, but cannot address the specifics of any written appeal before the Board.

C. There has been no response regarding the department's budget submission, but a letter will be drafted to show the Commissioners' support of the 100% budget.

#### VIII. Old Business

The Board continued the issue of attorney ethics in the case at 118-A - 27th Street for two weeks.

#### IX. Calendar Items

March 17, 1992 - NO MEETING

March 24, 1992

7 appeal considerations (inc. 1 cont. from 3/10/92)  
6:00 Appeal Hearing: 3245 - 25th St. M001-74A (acctpt. 3/3/92)  
Old Business: A. Statutes of Limitation  
B. Attorney ethics - 118-A - 27th St.  
C. Outreach Committee

March 31, 1992

1 appeal consideration  
6:00 Appeal Hearing: 3840 Folsom St. #1 M001-69A (acctpt. 2/25/92)

#### X. Adjournment

President Hammill adjourned the meeting at 7:35 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, March 24, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present:	Carrico; Hammill; McGoldrick; Schlichtmann; Stephenson.
Commissioner not Present:	Rossoff.
Staff Present:	Grubb; O'Hearn.

Commissioners Villa and Marshall appeared on the record at 5:44 p.m. Commissioner How appeared at 5:46 p.m. Commissioners Hammill, How, Marshall, Schlichtmann and Stephenson left the meeting at 6:50 p.m.

III. Approval of the Minutes

MSC: To approve the minutes of March 10, 1992.  
(Schlichtmann/Carrico: 4-0)

IV. Remarks from the Public

Al Goodwin requested the response on the question of public comment raised at an earlier March Board meeting. (He was directed to page 5 of the Minutes of March 10, 1992.)

V. Consideration of Appeals

A. 2262-2264 Bryant St. M001-77A

The landlord's petition for capital improvement certification was granted by the hearing officer, but possible rent overpayments were determined based on increases apparently over limitations in 1991 and 1992. On appeal, the landlord asserts that the increases were permissible due to banking, as the tenants' rents were not raised in 1983. However, the decision was posited in the alternative, and refunds were ordered only if there were not banked increases available to the landlord.

MSC: To deny the appeal. (Carrico/Schlichtmann: 4-0)

B. 2201 Francisco St. #9

M002-07R

This appeal was continued from the meeting of March 10th for the Hearing Officer's response regarding the issue of insurance proceeds. It was continued for another week for the Hearing Officer's response on the issue of SBA loans.

C. 200 Guerrero St. #310

M002-09R

The tenant's petition based on decreased housing services and the landlord's failure to repair was denied by the hearing officer, as the tenant failed to meet his burden of proof. The tenant maintained that garage security was inadequate, resulting in theft and vandalism to his car. However, there had been no reduction in the amount of security provided, nor was the security system in violation of local requirements. On appeal, the tenant states that the landlord's witness lied and slandered him, and that there has been \$689.61 worth of further damage to his car since the hearing.

MSC: To deny the appeal. (Carrico/McGoldrick: 4-0)

D. 1381 Filbert St.

M001-79A

The landlord's petition for certification of capital improvements was granted, however, \$3,371.53 in rent overcharges were determined by the hearing officer. The overpayments resulted from a \$10 garbage charge assessed by the landlord beginning in 1983, which was included in base rent, and then was added again every year through 1988. Since the Commissioners could not understand the basis of the landlord's appeal, the matter was continued for 2 weeks in order for staff to contact the landlord for clarification.

E. 2874-A - 16th St.

M001-80A

In a previous case, the tenant was granted rent reductions to correspond with decreased housing services. At issue in this case is a \$10 rent reduction due to the need for repair of plaster patches throughout the unit that the landlord attempted to reinstate. The hearing officer found that the scope of the landlord's repairs was insufficient to warrant reinstitution of the \$10 reduction. On appeal, the landlord maintains that the previous hearing officer had erred in the original decision, already upheld on appeal, by ordering that the repairs be done throughout the unit, as he asserts that much of the damage was caused by the tenants themselves.

MSC: To deny the appeal.

(McGoldrick/Schlichtmann: 5-0)



F. 540 Leavenworth St. #509 M002-10R

Two tenants filed petitions alleging decreased housing services and rent reductions in the amount of \$202.50 were granted by the hearing officer. The landlord's appeal alleging non-receipt of the Notice of Hearing was granted by the Board and the case was remanded for a new hearing. As neither tenant appeared at the remand hearing, the petitions were dismissed. One tenant appeals the dismissal, alleging that she was having an operation at the time of the hearing and providing a letter verifying that she had a scheduled appointment at that time even though she did not call or write to request a postponement of the remand hearing.

MSF: To deny the appeal. (Carrico/How: 2-3;  
Marshall, McGoldrick and Schlichtmann dissenting)

MSC: To remand the case for another hearing.  
(Marshall/Schlichtmann: 3-2; Carrico and How  
dissenting)

G. 2090 Pacific Ave. M001-81A

The landlord withdrew this appeal.

#### VI. Communications

The Commissioners received the following communications:

A. a memo from the Deputy Director regarding rent decrease remand cases;

B. the annual report to the Board of Supervisors concerning the eviction notices filed with the Rent Board from March 1991 through February 1992; and

C. the appeal decision for 499 Alabama Street, heard on October 29th and decided on December 17th, which was approved and signed.

#### VII. Director's Report

A. The Executive Director reminded Commissioners that their annual Statements of Economic Interest are due on April 1st; however, due to the delay in getting the forms to the Commissioners, the date is extended to May 1st.

B. The Executive Director reported that proposed amendments to the Rent Ordinance have been submitted to Supervisor Achtenberg for introduction to the Board of Supervisors. The amendments propose a voluntary expedited hearing procedure for certain types of hearings and propose that appeals to the Board must be filed no later than the next business day if the final day for filing is a Saturday, Sunday or legal holiday.

C. The Deputy Director reported that the U.S. District Court recently ruled in favor of the City and Rent Board in the Campbell case which had been under submission since the completion of a bench trial in July 1986. The landlord brought this action as a federal civil rights damage claim for denial of due process based upon the composition and conduct of Rent Board Hearing Officers, as well as other deficiencies in the Rent Board hearing process of his case in 1979.

D. The Deputy Director also reported that based upon the request of the Commissioners, Hearing Officers will be attending Board appeal hearings and drafting the Commissioners' appeal decisions on their original cases.

E. The Deputy Director announced her resignation from the Rent Board effective April 14th, to take a staff counsel position with the state Department of Social Services.

#### IV. Remarks from the Public (cont.)

A. Al Goodwin expressed his regrets over the Deputy Director's departure.

B. The tenant/appellant of the case concerning 200 Guerrero St. #310 requested that the Board reconsider its action denying his appeal.

#### VIII. Appeal Hearing

3245 - 25th Street

M001-74A

This appeal hearing was postponed until April 14th.

#### IX. Calendar Items

##### March 31, 1992

5 appeal considerations (inc. 1 cont. from 3/24/92)  
6:00 Appeal Hearing: 3840 Folsom St. #1 (accpt. 2/25/92)  
Old Business: A. Statutes of Limitation  
B. Attorney ethics - 118-A - 27th St.  
C. Outreach Committee

##### April 7, 1992

8 appeal considerations (inc. 1 cont. from 3/24/92)  
6:00 Appeal Hearing: 3475 - 16th St. #4 (accpt. 3/3/92)

##### April 14, 1992

3 appeal considerations  
6:00 Appeal Hearing: 3245 - 25th St. (accpt. 3/3/92)



X. Old Business

As the items to be considered were mistakenly omitted from the agenda, the Board continued the issue of attorney ethics in the case at 118-A - 27th Street until the next Board meeting. Likewise, with the absence of Commissioner Rossoff, the discussion on statutes of limitation was continued until the next Board meeting.

The Outreach Committee (Commissioners Carrico, McGoldrick and Villa) convened and discussed outreach materials.

XI. Adjournment

Commissioner McGoldrick adjourned the meeting at 7:20 p.m.





FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
March 31, 1992

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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APR 9 1992

SAN FRANCISCO  
PUBLIC LIBRARY

TIM CARRICO

MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 2201 Francisco St. #9	M002-07R (cont. 3/24)
B. 3135 Franklin St.	M001-82A
C. 416 Holloway	M001-83A
D. 262 - 19th Ave.	M002-11R
E. 545 Ashbury St. #1	M001-84A

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

450 Alabama St.	H001-03X
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IX. Old Business

A. Statutes of Limitation
B. Attorney ethics - 118-A - 27th St.
C. Outreach Committee

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

6:00 3840 Folsom St. #1	M001-69A
(accepted 2/25/92)	

XII. Calendar Items

XIII. Adjournment





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, March 31, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Hammill; Marshall; McGoldrick; Rossoff; Schlichtmann; Villa.
Commissioners not Present:	How; Stephenson.
Staff Present:	Grubb; Ruiz

Commissioner Carrico appeared on the record at 6:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 24, 1992.  
(McGoldrick/Marshall: 4-0; Rossoff abstaining)

IV. Consideration of Appeals

A. 2201 Francisco St. #9 M002-07R (cont from 3/24)

The landlord's petition for certification of the costs of disaster-related repairs was granted, resulting in a \$64.92 monthly passthrough. One tenant appeals, alleging that the landlord may have been compensated by insurance; and that since her unit only sustained \$400.00 in damage, she should not be assessed the same passthrough as tenants in units that sustained more damage.

MSC: To deny the appeal. (Schlichtmann/Villa: 5-0)

B. 3135 Franklin St. M001-82A

At issue in this case is the application of Ordinance Section 37.3(c), which prohibits a tenant who subleases his or her rental unit from charging the subtenant(s) more rent than that which the tenant is currently paying the landlord. The landlord/master tenant rented the unit at issue, which

is in the same building as the rental unit that he resides in, from the owner at a reduced rent with the understanding that it was to be for the occupancy of his mother (who did not move in). He charged the tenants \$700.00 more per month than he was paying the landlord, and the hearing officer determined overpayments in the amount of \$2,550.00. The landlord/master tenant appeals, alleging that Section 37.3(c) only applies to roommates; that he made improvements to the unit in the amount of \$7,000.00; and that he has already prevailed on these issues in a Municipal Court Case.

MSC: To deny the appeal. (McGoldrick/Marshall:  
4-1; Carrico dissenting)

C. 416 Holloway #1, #2 & #3 M001-83A

Three tenants filed summary petitions alleging rent increases in excess of the allowable limits because they contend that the owner does not live in the building. The Hearing Officer determined that the rent increases were illegal. On appeal, the landlord asserts that the building is owner-occupied and is exempt from the Rent Ordinance.

MSC: To deny the appeal. (McGoldrick/Marshall: 5-0)

D. 262 - 19th Ave. M002-11R

The tenant's petition regarding illegal rent increases was dismissed with prejudice by the Hearing Officer due to lack of jurisdiction. On appeal, the tenant contends that the premises were not exempt at the time of the rent increases because the landlord did not reoccupy the premises, her possessions were moved out and her lease secured her tenancy for two (2) years subject to the Rent Ordinance.

MSC: To deny the appeal. (Schlichtmann/Carrico:  
3-2; Marshall/McGoldrick dissenting)

E. 545 Ashbury St. #1 M001-84A

The tenant's petition based on decreased housing services and the landlord's failure to repair was granted, specifically: \$170.00 a month for 15 months for insufficient heat; \$25.00 a month for 12 months due to a lack of security; \$25.00 for 4 months for holes and cracks in the walls; and \$17.88 per month for 3 months for failure to correct code violations. On appeal, the landlord contends that the tenant failed to substantiate the above claims.

MSC: To excuse Commissioner Carrico.  
(McGoldrick/Villa: 5-0)

MSC: To deny the appeal. (Marshall/Schlichtmann:  
5-0)

VI. Communications

The Commissioners received two memos from Hearing Officer Alicia Wicks regarding 2201 Francisco Street #9 (Case No. M002-07R).

VII. Director's Report

A. The Executive Director informed the Commissioners that the Mayor's Office was requiring that all persons interested in remaining in their position as Commissioners should file an application.

B. The Executive Director reported to the Commissioners on whether notices of violations were required by hearing officers on petitions filed for decrease in services and failure to repair and maintain. The present policy is that a notice of violation from a State or local agency is not required for petitions for decrease in services; however, it is required for petitions for failure to repair and maintain because only those items that constitute violations under State and local law are considered.

VIII. Consideration of Allegations of Wrongful Evictions

450 Alabama Street

H001-03X

On January 7, 1987 the Board accepted the landlord's Notice of Intent to Withdraw these residential units from the rental market. [Ordinance Section 37.9(a)(13); Rules and Regulations Section 12.18] Ever since that date, the landlord has repeatedly failed to comply with the law requiring status reports. Moreover, the Board has been informed that at least some, if not all, of the units remain in residential use in violation of the re-occupancy provisions under the law. It is therefore recommended that this case be referred to the District Attorney for investigation.

MSC: To send one more letter to the landlord with instructions that if no response is received within ten (10) days, the case will be referred to the District Attorney's Office.  
(Schlichtmann/Carrico: 5-0)

IX. Old Business

A. Commissioner Marshall distributed draft legislative proposals for establishing statutes of limitations. The matter was discussed and continued for final consideration next week.

B. The Board continued the issues of attorney ethics in the case at 118A - 27th Street as well as the Outreach Committee until the next Board meeting.

IV. Appeal Hearing

3840 Folsom St. #1

M001-69A (accpt. 2/25)

Pursuant to a landlord's petition for capital improvement certification, a monthly passthrough of \$644.68 was approved for one unit. The landlord appeals imposition of Section 7.12(d) of the Rules and Regulations, limiting the first year monthly passthrough to \$42.50 on the grounds of extraordinary circumstances. The Board accepted the appeal for hearing on the issue of extraordinary circumstances and financial hardship to both landlord and tenant.

The landlords were represented by an attorney; the tenant represented himself. Testimony focused on the finances of landlord and tenant, and the HUD funds used for the capital improvement work. After discussion and review of the evidence, the Commissioners passed the following motion:

MSC: To find no extraordinary circumstances in this case and to have staff recalculate the passthrough omitting the HUD grant from the total cost. (Marshall/McGoldrick: 3-2; Carrico and Villa dissenting)

X. Calendar Items

April 7, 1992

6 appeal considerations

6:00 Appeal Hearing: 3475 - 16th St. #4 M001-94R  
(accpt. 3/3/92)

Old Business: A. Statutes of Limitation  
B. Attorney ethics - 118A - 27th St.  
C. Outreach Committee

April 14, 1992

4 appeal considerations

6:00 Appeal Hearing: 3245 - 25th St. M001-74A  
(post. from 3/24/92)

April 21, 1992 - NO MEETING

XI. Adjournment

President Hammill adjourned the meeting at 8:55 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
April 7, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

- TIM CARRICO I. Call to Order  
MAMIE HOW  
POLLY MARSHALL II. Roll Call  
JAKE MCGOLDRICK  
MICHAEL ROSOFF III. Approval of the Minutes  
DENICE STEPHENSON  
WILLIAM VILLA IV. Remarks from the Public  
V. Consideration of Appeals

- |                        |          |
|------------------------|----------|
| A. 1580 Beach St. #102 | M002-12R |
| B. 1615 Jones St. #3   | M001-86A |
| C. 201 Virginia Avenue | M002-13R |
| D. 810 Eddy St. #602   | M001-85A |
| E. 460 Fell St. #8     | M002-14R |
| F. 765 Sutter St. #405 | M001-87A |

- VI. Communications  
VII. Director's Report  
VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

- A. Statutes of Limitations  
B. Attorney ethics - 118-A - 27th Street  
C. Outreach Committee

IV. Remarks from the Public (cont.)

X. New Business

XI. Appeal Hearing

6:00 3475 - 16th Street #4 M001-94R (acct. 3/3/92)

XII. Calendar Items

IX. Old Business (cont.)

XIII. Adjournment

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PUBLIC LIBRARY





FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, April 7, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Carrico; Hammill; Rossoff; Schlichtmann; Stephenson.
Staff Present:	Grubb; Wolf.

Commissioner Villa appeared on the record at 5:45 p.m.;  
Commissioner McGoldrick appeared at 5:47 p.m.; Commissioner How  
arrived at 5:49 p.m.; and Commissioner Marshall at 5:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 31, 1992.  
(Carrico/Schlichtmann: 4-0)

IV. Consideration of Appeals

A. 1580 Beach St. #102 M002-12R

The landlord's petition for certification of seismic upgrading  
of the building and a new intercom system was granted, and the  
landlord was allowed a \$104.45 monthly passthrough per unit.  
One tenant appeals, asserting that the work was  
disaster-related, and therefore should be passed through at the  
rate of 75% of the cost; and alleging insufficiencies in the  
landlord's documentation.

MSC: To deny the appeal.  
(Schlichtmann/Hammill: 4-0)

B. 1615 Jones St. #3 M001-86A

The tenant's petition alleging an illegal rent increase was  
granted, and \$814.58 in overpayments were determined by the  
hearing officer. At issue is the tenant's move-in date. On  
appeal, the landlord alleges that the tenant held over as an

unapproved roommate of a prior tenant, and that the anniversary date is April, 1987. The hearing officer found the tenant's evidence of June 1st commencement of the tenancy more credible, and therefore found the April 1988 increase null and void as occurring prior to one year of occupancy.

MSC: To deny the appeal.  
(Stephenson/Schlichtmann: 5-0)

C. 201 Virginia Ave. M002-13R

The tenants' petition alleging decreased housing services was dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants allege that they did not receive notice, and attach a Declaration of Non-receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing. (McGoldrick/Schlichtmann: 5-0)

D. 810 Eddy St. #602 M001-85A

The tenant's petition regarding decreased housing services was granted, in part, and the hearing officer determined that \$2,325.00 was owed by the landlord due to peeling paint in the bathroom, a defective radiator, and lack of hot water pressure. On appeal, the landlord asserts that the hearing officer had no jurisdiction to render a decision, as the same issues had been litigated in Small Claims Court, and that evidence provided by the tenant was falsified. At the time of the Rent Board hearing, the Small Claims judgment had not yet been issued.

MSC: To excuse Commissioner Rossoff from consideration of this appeal.  
(Schlichtmann/Marshall: 5-0)

After discussion, it was the consensus of the Board to continue this case in order to obtain legal advice.

E. 460 Fell Street #8 M002-14R

The tenant's petition regarding decreased housing services was denied, as the hearing officer found that: the tenant failed to meet his burden of proof; the conditions complained of were cosmetic in nature, and not substantial; and the landlord attempted to effectuate repairs in a timely manner. The tenant appeals, claiming that the hearing officer erred regarding the facts; that the landlord's repair attempts were unsuccessful; and that requiring tenants to provide Notices of Violations is unduly burdensome.

MSC: To remand the case to the same hearing officer on the issue of the mushrooms only.  
(Marshall/Schlichtmann: 5-0)

F. 765 Sutter St. #405 M001-87A

The landlord in this case failed to appear at the remand hearing, and alleges on appeal that he did not know that a new hearing had been scheduled. It was therefore the consensus of the Board to continue the case in order to obtain a Declaration of Non-Receipt of Notice of Hearing from the landlord.

V. Appeal Hearing

3475 - 16th Street #4 M001-94R

Pursuant to a landlord's petition for capital improvement certification, a monthly passthrough in the amount of \$12.43 was approved for this tenant. The tenant appealed the decision on the basis of financial hardship, among other grounds, and the Board accepted the appeal for hearing on the issue of hardship only.

The tenant and landlord appeared and represented themselves. Testimony focused on the tenant's financial circumstances. After discussion and review of the evidence, the Commissioners passed the following motion:

MSC: To certify the capital improvement, but defer imposition to this tenant for one year, at which time the landlord may notice the passthrough. If the tenant's financial circumstances have not improved, he may file a petition on the basis of hardship which shall be decided by a hearing officer. If the landlord disputes the hearing officer's decision, he may file an appeal.  
(Marshall/Schlichtmann: 5-0)

VI. Communications

The Commissioners received the following communications:

A. The subject codes which will be entered into the computer in order to create a decision index by subject matter.

B. A copy of the appeal decision in the case of Da Vinci Group v. San Francisco Residential Rent Stabilization and Arbitration Board (Superior Court No. 923-374).

VII. Director's Report

The Executive Director reminded the Commissioners that the going-away party for Deputy Director O'Hearn will be held at the Rent Board offices at 4:00 p.m. on April 9th.

VIII. Old Business

A. After lengthy discussion of various proposals for establishing statutes of limitation, the Board passed the following motion, which will be forwarded to the City Attorney for draft language for Board of Supervisors' consideration:

MSC: To establish a 7 year statute of limitations on petitions resulting in rent refunds due to null and void rent increases, with determination of refunds to go back no longer than 3 years, in addition to any time period that has passed between filing of the petition and issuance of the decision; readjustment of base rents shall go back 7 years. Capital improvement passthroughs shall be petitioned for no longer than 5 years after the date of completion of the project, and banked increases shall go back no more than 7 years. These proposals meet with the approval of the tenant representatives on the Board only if the limitation on capital improvement passthroughs contained in Rules and Regulations Section 7.12(d) is incorporated in the Ordinance as well. These proposals meet with the approval of the landlord representatives on the Board as is, but if the limitation on capital improvements becomes part of the package, then only with the institution of a passthrough for tax increases related to bond measures instead of the PG&E passthrough, which shall be deleted. (How/Schlichtmann: 5-0)

B. The Commissioners briefly discussed the latest draft brochure prepared by the Outreach Committee.

C. The issue of attorney ethics in the case at 118A - 27th Street was continued until the next Board meeting.

IX. Remarks from the Public

In conjunction with the passthrough of tax increases related to bond measures, Al Goodwin reminded the Commissioners of how hard it is to meet the threshold required for an increase based on operating expenses. He also questioned the necessity of readjusting base rents to preserve affordable housing for tenants in place in the absence of vacancy control.

0163M

X. Calendar Items

April 14, 1992

3 appeal considerations

6:00 Appeal Hearing: 3245 - 25th St. M001-74A  
(post. from 3/24/92)

Old Business: A. Statutes of Limitation  
B. Attorney ethics - 118A - 27th St.  
C. Outreach Committee

April 21, 1992 - NO MEETING

XI. Adjournment

President Hammill adjourned the meeting at 8:20 p.m.





City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

April 14, 1992

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

AGENDA

I. Call to Order

TIM CARRICO  
MAMIE HOW

II. Roll Call

POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

III. Approval of the Minutes

IV. Executive Session

Govt. Code 54956.9(a)&(b)  
*Da Vinci Group v. S.F. Rent Board*

DOCUMENTS DEPT.

V. Remarks from the Public

APR 16 1992

VI. Consideration of Appeals

SAN FRANCISCO  
PUBLIC LIBRARY

A. 2707 McAllister St. #C M001-88A  
B. 230 Lowell St. #2 M002-16R  
C. 1100 Gough St. #16D, 15A & 15D M001-89A

VII. Communications

VIII. Director's Report

IX. Consideration of Allegations of Wrongful Evictions

X. Old Business

A. Statutes of Limitations  
B. Attorney ethics - 118-A 27th St.  
C. Outreach Committee

V. Remarks from the Public (cont.)

XI. New Business

XII. Appeal Hearing

6:00 3245 25th Street

M001-74A  
(post from 3/24/92)

XIII. Calendar Items

X. Old Business (cont.)

XIV. Adjournment  
0162M





FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, April 14, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

Vice-President Schlichtmann called the meeting to order at 5:39 p.m.

II. Roll Call

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

Commissioners Present: Schlichtmann; Stephenson;  
Rossoff.  
Commissioners not Present: Hammill; Marshall;  
McGoldrick; Villa.  
Staff Present: Grubb; Ruiz.

Commissioner Carrico appeared on the record at 5:41 p.m.;  
Commissioner How appeared at 5:51 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 7, 1992 with the following amendment: On Page 4, Item A under Old Business, regarding the motion for establishing statutes of limitation, last sentence: . . . These proposals meet with the approval of the landlord representatives on the Board as is, but if the limitation on capital improvements becomes part of the package, then only with the institution of a passthrough for voter approved taxes related to bond measures and/or parcel taxes, instead of prospective PG&E passthroughs to tenants not previously noticed, such PG&E passthroughs shall be deleted. The amendments in the Ordinance will allow ongoing PG&E passthroughs to be continued in accordance with the Rules and Regulations. No new PG&E passthroughs will be allowed to be imposed. (amendment underlined) (Carrico/How: 4-0)

IV. Executive Session

At 5:45 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54956.9(a) & (b) to discuss the recently handed down decision of *DaVinci Group v. S.F.*

*Rent Board* by Superior Court. A representative from the City Attorney presented to the Board proposed draft language perserving null and void overpayments, which is to be submitted to the Board of Supervisors. When it was discussed, the Commissioners unanimously passed the following motion:

MSC: To adopt proposed legislation regarding null and void. (Carrico/Stephenson: 4-0)

Vice-President Schlichtmann will send a letter indicating the Board's consensus and endorsement of the proposal to the Board of Supervisors. The Commissioners returned on the record at 6:20 p.m.

VI. Consideration of Appeals

A. 2707 McAllister Street #C

M001-88A

The landlord submitted his appeal five (5) days late indicating that it had been returned because it had been improperly addressed.

MSC: To find good cause for late filing of the appeal. (Carrico/Stephenson: 4-0)

The tenant's petition based on decreased housing services and failure to repair and maintain was granted, specifically, \$100.00 a month for twelve (12) months for a severe leak in the ceiling/roof; and \$100.00 a month thereafter until repairs are corrected. On appeal, the landlord contends that the allegation of decreased housing services is false, that the repairman responded within a reasonable time, and that the repairs have finally been completed.

MSC: To deny the appeal. (Stephenson/Carrico: 4-0)

B. 230 Lowell St. #2

M001-16R

The tenant filed a Report of Alleged Wrongful Eviction and a petition for decreased housing services. The Hearing Officer dismissed both with prejudice because the tenant failed to appear at the properly noticed hearing. On appeal, the tenant asserts that she did not appear because she relied on her attorney's advice to withdraw her petition. The attorney was not aware at the time that the tenant had also filed a tenant petition for arbitration of decreased housing services.

MSC: To remand the case to the Hearing Officer solely on the issue of decreased housing services. (How/Stephenson: 4-0)

C. 1100 Gough St. #15A, #15D, and #16D

M001-89

Three tenants petitioned for rent reductions based on decreased housing services due to the condition of the elevators and the security entry system. In addition, the tenant in #16D alleges that there is no rear entry access and that the laundry system is in poor condition. Rent reductions were previously granted on these issues pursuant to two prior Rent Board decisions which were upheld on appeal in cases No. L001-91A and M001-47A. The tenants were granted varying sums for reduced elevator service depending on the extent to which each tenant was individually affected and on which floor s/he resided. The requests for rent reduction for the faulty entry system and other services were denied due to the lack of verifiable notice to the landlord. The landlord appeals, claiming that there is no substantial evidence to support the findings that there were decreases in service pertaining to the elevator service.

MSC: To deny the appeal for units #15A and #15D and to remand to the Hearing Officer to reconsider decrease in housing services for Unit #16D because the tenants knew of the condition of the elevators prior to moving to the 16th floor and to also consider if they suffered a decrease in housing services while residing in Unit #4. (Carrico/How: 3-1; Stephenson dissenting)

#### VII. Communications

The Commissioners received the following communications:

- A. A revised draft the brochure prepared by the Outreach Committee.
- B. Rent Board statistics for 1992.
- C. A copy of the Tenderloin Times.

#### VIII. Director's Report

The Executive Director reminded the Commissioners that their Annual Statements of Economic Interest were due by May 1st.

#### IX. Old Business

- A. The Board continued the issue of statutes of limitation and the issue of attorney ethics in the case at 118-A - 27th Street.
- B. The Commissioners discussed the revised version of the brochure prepared by the Outreach Committee.

X. Appeal Hearing

3245 - 25th Street

M001-74A  
(post. from 3/24/92)

The parties in this case reached a settlement prior to the hearing.

V. Remarks from The Public (cont'd)

Al Goodwin asked to whom and how the brochure prepared by the Commissioners was going to be distributed.

XI. Calendar Items

April 21, 1992 - NO MEETING

April 28, 1992

7 appeal considerations

Old Business: A. Statutes of Limitation  
B. Attorney Ethics - 118-A - 27th St.  
C. Outreach Committee

XII. Adjournment

Vice-President Schlichtmann adjourned the meeting at 7:15 p.m.



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
April 28, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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DOCUMENTS DEPT.

APR 20 1992

SAN FRANCISCO  
PUBLIC LIBRARY

TIM CARRICO

MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1381 Filbert Street

B. 810 Eddy St. #602

C. 765 Sutter St. #405

D. 575 Eddy St. #102

E. 2249 Van Ness Ave. #1

F. 1615 Jones St. #3

G. 1459 - 42nd Ave.

M001-79A (cont. from 3/24)

M001-85A (cont. from 4/7)

M001-87A (cont. from 4/7)

M002-18R

M002-17R

M001-90A

M002-19R

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

A. Statutes of Limitation

B. Attorney Ethics - 118-A 27th Street

C. Outreach Committee

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XI. Old Business (cont.)

XII. Adjournment

0164M







FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, April 28, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Hammill; Marshall; Rossoff; Stephenson.
Commissioners not Present:	McGoldrick; Schlichtmann; Villa.
Staff Present:	Grubb; Wolf.

Commissioner Carrico appeared on the record at 5:40 p.m. and  
Commissioner How appeared at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 14, 1992 with  
the following correction: Regarding the appeal  
concerning 1100 Gough Street #15A, #15D and  
#16D (M001-89A), the motion should read as  
follows:

MSC: To deny the appeal for units #15A and #15D and  
to remand to the Hearing Officer to reconsider  
the rent reduction for Unit #16D, valuing the  
service decrease at the same level as when the  
tenants lived in unit #4D, unless extraordinary  
circumstances exist. (How/Carrico: 3-1;  
Stephenson dissenting)

IV. Remarks from the Public

Staff member Ernestine Cade-Hill addressed the Board about some  
staff members' concerns regarding the recent office  
reorganization, which will result in the deletion of one  
management position and creation of another. Staff would like  
the opportunity to offer input and alternative proposals.

V. Consideration of Appeals

A. 1381 Filbert Street M001-79A (cont. from 3/24)

The landlord's petition for certification of capital  
improvements was granted, however, \$3,371.53 in rent

overpayments was determined by the hearing officer. The overpayments resulted from a \$10 garbage charge assessed by the landlord beginning in 1983, which was included in base rent, and then was added again every year through 1988. The matter was originally continued in order for staff to obtain clarification regarding the landlord's appeal. The landlord's subsequent submission to the Commissioners asserted that the garbage surcharge was an innocent mistake, and that it was unfair to void the rent increases in their entirety.

MSC: To accept the landlord's appeal and schedule a Board hearing in the interest of fairness and justice. (Carrico/Hamill: 3-0)

B. 810 Eddy Street #602 M001-85A (cont. from 4/7)

The tenant's petition regarding decreased housing services was granted, in part, and the hearing officer determined that \$2,325.00 was owed by the landlord due to peeling paint in the bathroom, a defective radiator, and lack of hot water pressure. On appeal, the landlord asserts that the hearing officer had no jurisdiction to render a decision, as the same issues had been litigated in Small Claims Court, and that evidence provided by the tenant was falsified. At the time of the Rent Board hearing, the Small Claims judgment had not yet been issued.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing on the question of which issues are res judicata only. (Carrico/Marshall: 3-0)

C. 765 Sutter St. #405 M001-87A (cont. from 4/7)

The tenant's petition regarding decreased housing services was granted in the amount of \$704.00 due to a roof leak resulting in a damaged bedroom ceiling. The landlord failed to appear at the properly noticed hearing. On appeal, he submits a Declaration of Non-Receipt of Notice of Hearing, along with the claim that the decision contained numerous false statements.

MSC: To accept the appeal and remand the case for a new hearing. (Carrico/Hamill: 3-0)

D. 575 Eddy St. #102 M002-18R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer. The tenant appeals, alleging that the rent reductions allowed are inadequate, particularly \$20 per month due to the lack of heat. He also maintains that the rent reductions should go back for a longer period of time as there was verifiable notice to the landlord and the predecessor landlord.

MSC: To excuse Commissioner Marshall from consideration of this appeal.  
(Carrico/Hamill: 3-0)

MSC: To excuse Commissioner Rossoff from consideration of this appeal.  
(Carrico/Stephenson: 3-0)

MSC: To deny the appeal. (Carrico/Stephenson: 3-0)

E. 2249 Van Ness Ave. #1 M002-17R

The tenant's petition regarding decreased housing services was granted, and the hearing officer determined that the tenant was owed \$30 per month for a one and one-half month period when the ceiling in her bedroom leaked. On appeal, the tenant asserts that she was unable to use her bedroom during this period and, as the bedroom constitutes one-half of the unit, 35% of the monthly rent would be a more appropriate reduction.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing on the amount of the rent reduction.  
(Marshall/Hamill: 3-0)

F. 1615 Jones St. #3 M001-90A

The tenant's petition regarding decreased housing services was granted, in part, by the hearing officer. The landlord appeals the \$20 per month reduction for mildew in the bathroom and \$20 per month for required repair of cracks and painting the sleeping area, as he asserts that these items are minor cosmetic problems caused by the tenant himself.

MSC: To accept the appeal and remand the case to the same hearing officer only on the issue of when the rent reduction for the crack repair and painting work should terminate.  
(Marshall/Hamill: 3-0)

G. 1459 - 42nd Ave. M002-19R

The tenant's petition regarding decreased housing services was granted, and the hearing officer determined that the landlord owed the tenant \$50 per month for a two and one-half month period when his toilet was unstable due to a water leak from a broken pipe. The tenant appeals, claiming that the \$129.50 amount is inadequate as he had to reside outside of the unit for 40 days.

MSC: To deny the appeal. (Marshall/Carrico: 4-0)

VI. Communications

The Commissioners received a copy of the appeal decision for the case at 3475 16th Street #4 (M001-94R), which was approved by the Board and signed by President Hammill.

VII. Director's Report

The Executive Director reported as follows:

A. The Commissioners' Annual Statements of Economic Interest are due by May 1st.

B. The case of Travis Campbell v. S.F. Rent Board has been appealed to the 9th Circuit.

C. Proposed Ordinance amendments instituting an expedited hearing process were passed out of the Economic and Social Policy Committee on April 28th and will now go before the full Board of Supervisors.

D. Deputy City Attorney Pennypacker has requested that, in compliance with the Da Vinci decision, the Board cease ordering refunds of rent overpayments in any decisions issued from this time forward. An amendment to the Ordinance enabling such orders was introduced at the Board of Supervisors last Monday.

VIII. Old Business

The Board briefly discussed possible methods for distributing the brochure prepared by the Outreach Committee.

IX. Calendar Items

May 5, 1992

2 appeal considerations

May 12, 1992

3 appeal considerations

X. Adjournment

President Hammill adjourned the meeting at 7:15 p.m.

City and County of San Francisco



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

SF  
R52

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

5/5/92

Residential Rent Stabilization  
and Arbitration Board

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
May 5, 1992

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
  - V. Consideration of Appeals
    - A. 505 - 26th Ave. #3 M002-20R & M001-91A
  - VI. Communications
  - VII. Director's Report
  - VIII. Consideration of Allegations of Wrongful Evictions
  - IX. Old Business
  - IV. Remarks from the Public (cont.)
  - X. New Business
  - XI. Calendar Items
  - XII. Adjournment
- 0167M

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MAY 6 1992

SAN FRANCISCO  
PUBLIC LIBRARY







FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, May 5, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present: Hammill; Marshall;  
Rossoff; Villa.  
Commissioners not Present: Carrico; How; McGoldrick;  
Schlichtmann; Stephenson.  
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of April 28, 1992.  
(Marshall/Rossoff: 4-0)

IV. Consideration of Appeals

A. 505 26th - Ave. #3 M002-20R & M001-91A

The tenant's petition alleging illegal rent increases was granted, and \$3,887.54 in rent overpayments was determined by the hearing officer. The landlord appeals, asserting that because of the recent Da Vinci decision, the Rent Board has no authority to order rent refunds; and that a one-year Statute of Limitations should apply to rent overpayment cases. The tenant also appeals, maintaining that the hearing officer erred regarding the rent history, and that additional illegal increases exist.

MSC: To accept the landlord's and tenant's appeals and remand the case for a new hearing on the issues of the rent increase history and ordering of rent refunds only.  
(Marshall/Rossoff: 4-0)

V. Communications

The Commissioners received an updated staff roster.

VI. Director's Report

The Executive Director reported as follows:

A. Proposed Ordinance amendments establishing an expedited hearing process passed a first reading before the Board of Supervisors without comment; the vote was 11-0 in favor. A proposed amendment enabling the Board to order rent refunds will go before the Economic and Social Policy Committee on May 12th at 2:00 p.m.

B. The recent office reorganization will be discussed at an all-staff meeting on Thursday, May 7th at 3:00 p.m. The Commissioners are invited to attend.

VII. Remarks from the Public

A member of the public with an appeal pending before the Board inquired regarding the appeal process.

VIII. Calendar Items

May 12, 1992

2 appeal considerations

Old Business: Da Vinci Group v. S.F. Rent Board

May 19, 1992

5 appeal considerations

6:00 Appeal Hearing: 1381 Filbert St. M001-79A (acpt. 4/28)

May 26, 1992 - NO MEETING

June 2, 1992 - NO MEETING, ELECTION DAY

IX. Adjournment

President Hamill adjourned the meeting at 6:05 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
May 12, 1992

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
  - V. Consideration of Appeals
    - A. 250, 260, 270 McAllister/ M001-92A & M002-21R  
324 Larkin Street through M002-36R
    - B. 90 Heather Avenue M002-37R
  - VI. Communications
  - VII. Director's Report
  - VIII. Consideration of Allegations of Wrongful Evictions
  - IX. Old Business
    - DA Vinci Group v. S.F. Rent Board*
  - IV. Remarks from the Public (cont.)
  - X. New Business
  - XI. Calendar Items
  - XII. Adjournment
- 0169M

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MAY 13 1992  
SAN FRANCISCO





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, May 12, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 6:39 p.m.

II. Roll Call

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

Commissioners Present: Hammill; How; Marshall;  
Rossoff; Schlichtmann.  
Commissioners not Present: Carrico; McGoldrick;  
Stephenson; Villa.  
Staff Present: Grubb; Ruiz.

III. Approval of the Minutes

MSC: To approve the Minutes of May 5, 1992.  
(Rossoff/Marshall: 5-0)

IV. Remarks from the Public

Staff members Ernestine Cade-Hill and Carmen Herrera addressed the Board about some staff members' concerns regarding the proposed office reorganization, which will result in the deletion of one management position and creation of another. This was a follow-up to Ms. Cade-Hill's appearance before the Board on April 28, 1992.

V. Consideration of Appeals

A. 250, 260, 270 McAllister/ M001-92A, M002-21R  
324 Larkin Street through M002-36R

Sixteen (16) tenants alleging a substantial decrease in housing services without a corresponding reduction in rent arising from a reduction in building security services were granted \$15.00 a month in rent reduction. Both the landlord and tenants appeal.

The landlord appeals the hearing officer's determination on the basis that there is insufficient or no evidence to support the findings of fact and that the conclusions of law are erroneous. Specifically, the landlord asserts that: (1) the four (4) petitioners whose tenancy preceded the ownership of

the buildings by Hastings are not entitled the relief given by the Rent Board; (2) there is no evidence to support the conclusion that the base rent should be reduced \$15.00 per month for discontinuing inside patrols; (3) the hearing officer erred in failing to offset the cost of the alternative security services for the cost of the internal patrols; and (4) the hearing officer erred in holding that the Rent Board has jurisdiction to hear this matter.

MSC: To deny the landlord's appeal.  
(Marshall/Rossoff: 5-0)

The tenants appealed in response to the landlord's appeal asserting that they wish to preserve their right to argue their case fully if the landlord's appeal is granted.

MSC: To deny the tenants' appeal.  
(Schlichtmann/Rossoff: 5-0)

B. 90 Heather Avenue #105 M002-37R

The landlord's petition for certification of capital improvements based on costs incurred for exterior painting and new windows and doors was granted. One tenant appeals (#105) the allocation of capital amounts for units #205 and #305. A notice of Correction of decision of hearing officer was issued by staff on May 6, 1992 to reflect the proper amounts certified as capital improvements for unit #305. As the tenant in unit #205 has moved out, no correction was necessary as to that unit.

MSC: To deny this appeal. (Rossoff/Schlichtmann: 5-0)

#### VII. Director's Report

The Executive Director reported as follows:

A. The Board of Supervisor's Economic and Social Policy committee has postponed its consideration of the proposed Ordinance amendment establishing a null and void provision until Thursday, May 28, instead of the normal Tuesday due to the Memorial Day holiday.

B. The Director reported that the recent proposed office reorganization was discussed at an all-staff meeting on Thursday, May 7th at 3:00 p.m. This issue was discussed by the Commissioners with the Director.

#### VIII. Old Business

Discussion of the *Da Vinci Group v. S. F. Rent Board* decision was continued until May 19th.

0171M

IX. Calendar Items

May 19, 1992

5 appeal considerations

6:00 Appeal hearing: 1381 Filbert St. M001-79A  
(accpt. 4/28)

Old Business: 118A - 27th St.

*Da Vinci Group v. S. F. Rent Board*

New Business: Expedited Hearings

May 26, 1992 - NO MEETING

June 2, 1992 - NO MEETING

XII. Adjournment

President Hammill adjourned the meeting at 6:50 p.m.





92  
VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

May 19, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 15 San Antonio Pl. #101	M002-38R
B. 604-1/2 Haight St.	M002-39R
C. 1001 California #2B	M001-93A
D. 1123 Green St.	M002-40R
E. 3360 Octavia #7 & 11	M002-41R & M002-42R

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

IX. Old Business

A. Decision - 118A - 27th St.	M001-62A
B. <i>Da Vinci v. S.F. Rent Board</i>	

IV. Remarks from the Public (cont.)

X. New Business

Expedited Hearings

XI. Appeal Hearing

6:00 1381 Filbert St. M001-79A (accpt 3/24)

XII. Calendar Items

IX. Adjournment

0172M

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, May 19, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

Vice-President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Carrico; How; Marshall; Rossoff; Schlichtmann.
Commissioners not Present:	Hammill; McGoldrick; Stephenson; Villa.
Staff Present:	Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of May 12, 1992.  
(Marshall/How: 4-0)

IV. Consideration of Appeals

A. 15 San Antonio Pl. #101 M002-38R

The tenant's petition regarding decreased housing services was granted, in part, and the hearing officer determined that the landlord owed \$384 for an 8-month period during which the tenant was unable to use the driveway for washing his cars. The tenant appeals, alleging that he was not given an opportunity to cross-examine witnesses, and claiming that the agency exhibited bias in its handling of the proceedings.

MSC: To deny the appeal. (How/Carrico: 4-0)

B. 604-1/2 Haight St. M002-39R

The tenant's appeal of the dismissal of his petition was filed two and one-half months after the mailing of the decision. The tenant claims that he did not receive notice of the hearing, and submits a Declaration of Non-Receipt of Notice to that effect.

MSC: To find good cause for the late filing of the appeal. (Marshall/How: 4-0)

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The tenant's petition regarding alleged improper rent increases was dismissed due to his failure to appear at the hearing. The tenant claims that the notice was delivered to the wrong address, although this was the address that he furnished to the Board. The landlord asserts that the tenant's appeal should be denied, as the mistake was his own, and maintains that the Board has no jurisdiction as the tenant no longer lives at the subject property.

MSC: To remand the case for a new hearing and to obtain advice from the City Attorney regarding the jurisdictional question.  
(Marshall/How: 4-0)

C. 1001 California St. #2B M001-93A

The tenant's petition regarding alleged illegal rent increases was granted, and the hearing officer determined that the landlord owed \$9,675.74 in rent overpayments due to improper banking in 1991 and the prior landlord's failure to separate capital improvement and PG&E passthroughs from base rent in 1983. A 1986 decision resulting from a landlord's petition had certified the incorrect rental amount and was not appealed; therefore, the hearing officer in the instant case ceased declaring the increases void from that time forward. On appeal, the landlord alleges: that the hearing officer exceeded her authority as the issue of the 1983 increase is res judicata because of the 1986 decision; that it is unfair to penalize this owner due to the mistakes of a prior owner; and that the landlord has been unduly harmed by the tenant's having not brought her incorrect rent history to his attention earlier.

MSC: To accept the appeal and schedule a Board hearing on the issue of null and void rent increases. (Carrico/How: 4-0)

D. 1123 Green St. M002-40R

The tenant in this case originally rented one small bedroom at the rate of \$595 in a large flat with four other roommates. In 1990 he became the "master tenant" for the unit and assumed some management responsibilities in exchange for a rent reduction. In addition, he moved into a significantly larger bedroom with many more amenities. Upon the cessation of his management contract in February, 1992, the landlord noticed an increase in rent to \$850 due to the size of the room and the discontinuance of the master tenant discount. The tenant's petition alleging an illegal rent increase was denied by the hearing officer. On appeal, the tenant maintains that the rent law requires that the landlord file a petition based on comparables prior to effectuating the rent increase.

MSC: To accept the appeal and remand the case to the same hearing officer on the issue of comparables, considering the amenities furnished with this unit and the special circumstances of this case. Both parties shall provide evidence of the rental value of the subject unit. (Marshall/How: 4-0)

E. 3360 Octavia St. #7 & #11 M002-41R & M002-42R

The landlord's petition for capital improvement certification and operating expense increases was granted, in part, by the hearing officer. Two tenants appeal the decision on the grounds that the increases are excessive and unfair. In response, the landlord alleges that the appeals are moot as both of the tenants have given notice of their intent to vacate the units by the 9th of June.

MSC: To deny the appeals. (Carrico/How: 4-0)

#### V. Communications

The Commissioners received a copy of a memorandum from Shop Steward Ernestine Cade-Hill to Al Walker and the Civil Service Commission regarding the denial of Step 3 to recently promoted Rent Board Supervisor Pedro Ruiz.

#### VI. Director's Report

Acting Deputy Director Delene Wolf reported as follows:

A. The departmental budget as approved by the Mayor's office will not require an increase in the rental unit fee due to salary savings and carry-over from prior years.

B. Executive Director Grubb will meet with Shop Steward Ernestine Cade-Hill this week to discuss alternative proposals for promotional opportunities at the Rent Board; Ms. Hill presented staff concerns regarding the recent office reorganization before the Civil Service Commission.

C. The Commissioners were updated on the progress of draft Statute of Limitations language being forwarded to the City Attorney.

#### VII. Old Business

A. The decision in the case at 118-A - 27th Street (M001-62A) was approved by the Board with the following correction: page 13, line 2 should read 1982 instead of 1991, and shall be so corrected by staff.

B. The case of Da Vinci Group v. S.F. Rent Board was discussed in light of pending Ordinance amendments.

VIII. Remarks from the Public

Larry Becker informed the Board that the landlords have appealed the Da Vinci decision, and urged the Commissioners to vigorously defend the artist live-work and substantial rehabilitation aspects of the decision.

Ellen Lyons of Legal Assistance to the Elderly remarked on the difficulties her clients would face in enforcing a Rent Board decision through the courts.

IX. Calendar Items

May 26, 1992 - NO MEETING

June 2, 1992 - ELECTION DAY, NO MEETING

June 9, 1992

4 appeal considerations

6:00 Public Hearing: Expedited Hearings

Old Business: Attorney Ethics, 118-A - 27th St.

X. Adjournment

Vice-President Schlichtmann adjourned the meeting at 7:00 p.m.



SF  
R52  
#1  
6/7/92

VIVIAN HAMMILL  
PRESIDENT

WILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF PUBLIC HEARING

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE PROPOSED CHANGES WILL PERTAIN TO THE IMPLEMENTATION OF THE EXPEDITED HEARING PROCEDURE, SECTION 37.8A, WHICH WAS RECENTLY PASSED BY THE BOARD OF SUPERVISORS. SPECIFIC LANGUAGE WILL BE AVAILABLE JUNE 2, 1992 AT THE RENT BOARD OFFICE. YOU MAY CALL OUR MESSAGE MACHINE AT 979-4701 AND LEAVE YOUR NAME AND MAILING ADDRESS ONLY IF YOU WISH TO BE SENT A COPY OF THE PROPOSAL.

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JUN 6 1992

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\*\*\*\*\*  
\*  
\* DATE: JUNE 9, 1992 \*  
\*  
\* TIME: 6:00 P.M. \*  
\*  
\* PLACE: 25 VAN NESS AVENUE (AT MARKET ST) \*  
\*  
\* SUITE 70, LOWER LEVEL \*  
\* SAN FRANCISCO, CALIFORNIA \*  
\*  
\*\*\*\*\*

0575J

Date: May 22, 1992





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
June 9, 1992

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
  - V. Consideration of Appeals
    - A. 2700 Folsom St. #109 M002-43R
    - B. 243 27th Ave. M002-45R & M002-46R
    - C. 481-A Bartlett St. M002-44R
    - D. 1221 Funston Ave. #304 M001-94A
  - VI. Communications
  - VII. Director's Report
  - VIII. Consideration of Allegations of Wrongful Evictions
  - IX. Old Business
  - IV. Remarks from the Public (cont.)
  - X. New Business
  - XI. Public Hearing
  - 6:00 Expedited Hearings: Proposed Rules and Regulations
  - XII. Calendar Items
  - IX. Old Business (cont.)
  - XIII. Adjournment
- 0174M









MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, June 9, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

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JUN 17 1992

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TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

I. Call to Order

President Hammill called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present:	Hammill; How; McGoldrick; Rossoff; Schlichtmann; Stephenson.
Commissioners not Present:	Villa.
Staff Present:	Gartzman; Grubb.

Commissioner Marshall appeared on the record at 5:41 p.m. and  
Commissioner Carrico appeared on the record at 5:54 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 19, 1992.  
(How/Rossoff: 4-0)

IV. Consideration of Appeals

A. 2700 Folsom St. #109 M002-43R

The tenant's petition alleging decreased housing services was dismissed by the hearing officer due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant alleges that he failed to receive notice of the hearing and submits a Declaration of Non-Receipt of Notice of Hearing to that effect.

MSC: To remand the case for a new hearing.  
(Rossoff/Schlichtmann: 5-0)

B. 243-27th Ave. #1 & #2 M002-45R & M002-46R

Two tenants appeal the effective date of the capital improvement passthrough certified by the hearing officer for earthquake bolting, window replacement and exterior painting. The tenants allege that the passthrough should not be effective on the date specified in the landlord's notice of increase because the notice is undated and unsigned by a specific

person. The hearing officer determined that the notice was served on the tenants at least thirty days prior to the effective date of the notice. The notice is signed by "management."

MSC: To deny the appeal.  
(Rossoff/Schlichtmann: 5-0)

C. 481 Bartlett St. #A M002-44R

The tenants' petition alleging decreased housing services and the landlord's failure to repair was denied by the hearing officer, primarily due to the tenant's failure to notify the landlord regarding the defective conditions. Other conditions were not found to be substantial decreases in housing services. The tenants appeal, asserting that the hearing officer had a private conversation with the landlord's representative after the hearing, that the hearing officer failed to give sufficient weight to a BBI Notice of Violation and that the hearing officer failed to properly inform the tenants of their rights under the Rent Ordinance.

MSC: To deny the appeal.  
(Schlichtmann/Rossoff: 5-0)

D. 1221 Funston Ave. #304 M001-94A

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted only as to a 100% rent reduction for a two-day period (\$51.71) during which noise and fumes from re-roofing work substantially interfered with the tenant's use of the premises. On appeal, the landlord alleges that the hearing officer's decision penalizes the property owner for performing necessary repairs, and that the noise and odors generated by the work were normal in scope and not so substantial as to warrant a rent reduction.

MSC: To deny the appeal but to make a technical correction by omitting the last two sentences of paragraph 17 of the Conclusions of Law.  
(Marshall/Rossoff: 5-0)

V. Communications

The Commissioners received the following communications:

- A. Monthly Rent Board statistics for May 1992.
- B. A copy of a memorandum from Citizen Complaint Officer Ernestine Cade-Hill to Executive Director Joe Grubb regarding an employee conference.

- C. A submission regarding an appeal consideration scheduled for June 16, 1992.

VI. Public Hearing

A public hearing on proposed regulations to implement an expedited hearing process was commenced at 6:00 p.m. No testimony, written or oral, was offered by any member of the public prior to or at the hearing. The hearing was closed at 6:01 p.m. After the close of the hearing, the Commissioners briefly discussed the proposed regulations and passed the following motion.

- MSC: To adopt the June 2, 1992 draft of proposed regulations concerning expedited hearings as Rules and Regulations Section 11.25.  
(Marshall/How: 5-0)

VII. Director's Report

The Executive Director reported as follows:

- A. The Executive Director introduced the Acting Senior Hearing Officer, Sandy Gartzman.

- B. Delene Wolf has been selected as the Temporary Deputy Director for the Rent Board, effective immediately.

- C. The Executive Director's office reorganization plan is still under consideration by the Civil Service Commission, the Mayor's Budget Analyst and the Rent Board staff.

- D. On June 8, 1992, the Board of Supervisors approved an amendment to Ordinance Section 37.8, providing the Rent Board with authority to order a landlord to refund rent overpayments to tenants. On June 15, 1992, the Board of Supervisors will hold a second vote on the amendment. The Mayor is expected to sign the legislation and the amendment is expected to go into effect during July 1992.

- E. This week, Deputy City Attorney Pennypacker is prepared to draft an amendment to the Ordinance to establish a statute of limitations for: banking of annual rent increases; determinations of null and void rent increases; refunding of rent overpayments; and certification of capital improvement costs. On June 15, 1992, the legislation could be ready for introduction at the Board of Supervisors and referral to the Economic and Social Policy Committee for public hearing on June 23, 1992. A May 26, 1992 memorandum from the Executive Director to the Deputy City Attorney was distributed to the Commissioners regarding the proposed statutes of limitations as outlined by the Commissioners' motion of April 7, 1992. After

distribution of the memorandum, the Commissioners discussed its contents.

Commissioner Carrico expressed concern about a statute of limitations for banking of annual rent increases. The Commissioners generally agreed that a statute of limitations would encourage some landlords to impose banked rent increases in order to avoid losing the banked amounts. As an alternative, the Commissioners discussed eliminating the statute of limitations on banking and imposing a limitation on the percentage of banked rent increases that could be imposed in a twelve-month period.

Commissioner Marshall recognized an error in the interpretation of the Board's motion regarding the statute of limitations on determinations of null and void rent increases. The Commissioners agreed that the correct interpretation is to null and void all excessive rent increases during the seven years preceding the filing of the petition and to re-set the base rent accordingly.

The Commissioners agreed that any excessive rent increases prior to seven years preceding the filing of the petition are not null and void. They also agreed that if, during the period between April 1, 1982 and seven years preceding the filing of the petition, the total amount of actual rent increases does not exceed the total amount of allowable rent increases, the landlord may bank the difference in these amounts and impose it at a later date, subject to any limitation on the percentage of banked rent increases that could be imposed in a twelve-month period. However, if the total amount of actual rent increases exceeds the total amount of allowable rent increases during the period from April 1, 1982 and seven years preceding the filing of the petition, no amounts may be banked by the landlord even if there were years in which no rent increases were imposed.

Based upon these discussions, the Commissioners passed the following motion:

MSC: To amend the April 7, 1992 motion concerning statutes of limitations by: (1) eliminating the seven-year statute of limitations on banked rent increases; (2) adding a 12% limitation on the amount of banked rent increases that can be imposed in a twelve-month period; and, (3) changing the phrase "readjustment of base rents" to "re-setting of base rents."  
(Carrico/Schlichtmann: 5-0)

Pursuant to this motion, the April 7, 1992 motion is proposed for amendment as follows. Deletions are in brackets and additions are underlined.

To establish a 7 year statute of limitations on petitions resulting in rent refunds due to null and void rent increases, with determination of refunds to go back no longer than 3 years, in addition to any time period that has passed between filing of the petition and issuance of the decision; [readjustment] re-setting of base rents shall go back 7 years. Capital improvement passthroughs shall be petitioned for no longer than 5 years after the date of completion of the project[, and banked increases shall go back no more than 7 years.]. A landlord may not impose banked rent increases which exceed 12% in a twelve-month period. A landlord may accumulate any banked increases which exceed this amount and impose the increase in subsequent years subject to the 12% annual limitation. The banked rent increases are in addition to annual rent increases and are not affected by the 10% or \$30.00 limitation for capital improvement passthroughs nor the 7% limitation for increases based on increased operating and maintenance expenses.

Due to the Commissioners' proposed amendment of the April 7, 1992 motion, introduction of legislation regarding statutes of limitations will be delayed for approximately one week.

F. After discussion of options regarding the case at 118-A-27th Street, the Commissioners instructed staff to prepare a State Bar complaint for their signature based primarily on the attorney's attempt to use her position as an ALJ for undue influence at the Rent Board and for threatening the tenant and his family when he complained about excessive rent increases at the Rent Board.

G. Due to the vacation schedules of senior staff, there will be no Rent Board meeting on July 14, 1992.

H. Legislation concerning unreinforced masonry buildings was passed out of committee on June 9, 1992, with the exception of the sections concerning landlord/tenant rights and the Rent Board certification process.

I. The outreach brochure is completed and at the printers. 5,000 copies will be available for initial distribution.

J. The expedited hearing procedure takes effect June 20, 1992.



VIII. New Business

A. Commissioner Carrico requested that a copy of the Rent Board's 92-93 budget be provided to all Commissioners.

B. Commissioner Carrico requested an update on worker's compensation claims at the Rent Board. Commissioner How requested an update on a pending EEOC complaint. President Hammill requested that an Executive Session be scheduled during the next Rent Board meeting to discuss these matters and other issues brought to her attention by shop steward Ernestine Cade-Hill.

C. Commissioner McGoldrick requested that a copy of Supervisor Hallinan's legislation allowing legalization of in-law units be provided to all Commissioners.

D. Commissioner Rossoff inquired whether unmarried couples can pool their interests to be "an owner of record of at least 25% interest in the property" under Ordinance Section 37.9(a)(8)(B). Commissioner Marshall believes that such interests can be pooled under Rules and Regulations Section 12.14(a) which, for purposes of an eviction under Ordinance Section 37.9(a)(8), defines the term "landlord" as "a natural person, or group of natural persons who in good faith hold a recorded fee interest in the property . . .". [emphasis added]

IX. Calendar Items

June 16, 1992

5 appeal considerations

6:00 Appeal Hearing: 1381 Filbert St. M001-79A  
(acpt. 4/28/92; cont. from 5/19/92)  
Executive Session: Personnel matters  
Old Business: Statute of Limitations

June 23, 1992

6 appeal considerations  
Eviction updates and reports

June 30, 1992 - NO MEETING

July 7, 1992

3 appeal considerations  
6:00 Appeal Hearing: 1001 California Street M001-93A  
(acpt. 5/19/92)

July 14, 1992 - NO MEETING

X. Adjournment

President Hammill adjourned the meeting at 7:25 p.m.



FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
June 16, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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JUN 17 1992

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 455 - 21st Ave.	M001-95A
B. 1266 - 17th ave.	M001-96A
C. 1008 Larkin St.	M002-47R
D. 4162 - 20th St.	M001-97A
E. 3011 Steiner St. #B	M001-98A

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Statutes of Limitations

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Appeal Hearing

6:00 1381 Filbert St. M001-79A (acpt. 4/28)

- XI. Calendar Items

- VIII. Old Business (cont.)

- XII. Executive Session

Personnel matters pursuant to Government Code Section  
54957

- XIII. Adjournment







VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, June 16, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Hammill; Marshall; McGoldrick; Rossoff; Schlichtmann; Stephenson.
Commissioners not Present:	Villa.
Staff Present:	Grubb; Wolf.

Commissioner Carrico appeared on the record at 5:40 p.m.;  
Commissioner How appeared at 5:45 p.m. Commissioner Marshall  
went off the record at 6:30 p.m. and Commissioner Schlichtmann  
left the meeting at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 9, 1991.  
(Rossoff/Schlichtmann: 4-0)

IV. Consideration of Appeals

A. 455 - 21st Ave. M001-95A

The landlord's petition for certification of capital  
improvements was granted, but the hearing officer determined  
overcharges due to unlawful rent increases since 1988  
(approximately \$20 for two units and \$1,500 for one unit). The  
landlord appeals, alleging that as a result of the hearing  
officer's decision, he is now significantly undercharging the  
tenants. He also requests that the entire rent history for the  
units be reviewed.

MSC: To accept the appeal and remand the case for a  
technical correction or new hearing on the  
issue of the rent increase histories for the  
units only. (Marshall/Carrico: 5-0)

B. 1266 - 17th Ave.

M001-96A

The same landlord in the above case at 455 - 21st Avenue was granted capital improvement certification, but rent overcharges of approximately \$6.00 were determined for one unit, along with overpayments in the \$300 range for three other units. The overpayments were due to the landlord's "rounding up" of otherwise allowable rent increases for the period 1989 - 1991. The landlord appeals on the same grounds, and requests full review of the records.

MSC: To accept the appeal and remand the case for a technical correction or new hearing on the issue of the rent increase histories for the units only. (Marshall/Carrico: 5-0)

C. 1008 Larkin St. #206A

M002-47R

The tenant's petition alleging decreased housing services was denied by the hearing officer, who found that: the tenant had failed to notify the landlord prior to effectuating self-help; the conditions complained of were not substantial; or the landlord remedied the problem within a reasonable period of time. On appeal, the tenant alleges that she is being taken advantage of by the landlord, and questions the hearing officer's authority to render a decision.

MSC: To deny the appeal. (Schlichtmann/Carrico: 5-0)

D. 4162 - 20th St.

M001-97A

The landlord's appeal was filed 7 days late, because the landlord asserted that he calculated calendar instead of business days, and that he was out of town when the decision was sent out.

MSC: To find good cause for the late filing of the appeal. (McGoldrick/How: 5-0)

The tenant's petition alleging illegal rent increases was granted, in part. The tenant asserted that, under Section 37.3(c) of the Ordinance, he and the master tenant should have paid equal shares of the rent paid to the owner. However, the hearing officer found that, although the master tenant was paying less rent than his roommates, he was not collecting a total rent of more than the amount paid to the owner. An increase of more than 4% imposed prior to the anniversary date was, however, declared null and void, and rent overcharges of \$199.98 were determined. On appeal, the master tenant alleges that there was not a signed contract between the parties, and the hearing officer just accepted the subtenant's version of the events.

MSC: To deny the appeal. (Marshall/Schlichtmann: 5-0)

E. 3011 Steiner St. #B M001-98A

The tenants' petition regarding decreased housing services and the landlord's failure to repair was granted, in part, by the hearing officer. Due to excessive noise emanating from a downstairs restaurant which the landlords failed to attempt to curtail, the tenants were granted a 10% (\$112.00) rent reduction for a one-month period, after which the problem was substantially remedied. Additionally, the hearing officer determined \$12,199.34 in overcharges due to a 21.3% increase in 1988 and an increase given prior to the anniversary date. The landlord appeals, asserting that an attempt was made to intervene regarding the noise from the restaurant, and that overcharges resulted from compounding of banked increases should not render the increases null and void in their entirety.

MSC: To accept the appeal and schedule a Board hearing on the issue of the rent overpayments only. (Carrico/How: 5-0)

#### V. Communications

The Commissioners received a memo from Rent Board Supervisor Pedro Ruiz regarding Project Open Hand's Skip-a-Lunch program.

#### VI. Director's Report

Executive Director Grubb informed the Commissioners as follows:

A. The landlord's petition for review of the case Da Vinci Group v. S.F. Rent Board has been denied by the State Supreme Court.

B. The sections of the legislation regarding unreinforced masonry buildings that deal with landlord/tenant rights and the Rent Board certification process will be heard before the City Services Committee on June 22nd at 9:00 a.m.

#### VII. Appeal Hearing

1381 Filbert St.

M001-79A

The landlord's petition for certification of capital improvements was granted. However, \$3,371.53 in rent overpayments was determined by the hearing officer. The overpayments resulted from a \$10 garbage charge assessed by the landlord beginning in 1983, which was included in base rent, and then was added in again for several years through 1988. On appeal, the landlord asserted that the unlawful garbage charges

were an innocent mistake. He asked that just the overcharges be refunded, and that the rent increases not be ruled entirely null and void. The Board accepted the appeal in the interests of fairness and justice.

The landlord appeared, and was represented by his attorney. The tenant made no appearance. Testimony focused on the factual circumstances surrounding the landlord's mistake, and his willingness to refund sums overpaid for garbage. After discussion, the Commissioners continued the case for one week in order for staff to calculate the amount of the overpayment if just the garbage overcharges are refunded.

#### VIII. Old Business

The Commissioners received a draft memo to City Attorney Pennypacker regarding proposed Statutes of Limitation language. After discussion, it was the consensus of the Board that the memo be re-drafted and the matter was continued.

#### IX. Executive Session

From 7:00 p.m. until 9:00 p.m. the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss personnel matters.

#### X. Calendar Items

##### June 23, 1992

5 appeal considerations

Eviction updates and reports

Old Business: 1381 Filbert St. (M001-79A)  
(cont. from 6/16)

##### June 30, 1992 - NO MEETING

##### July 7, 1992

6 appeal considerations

6:00 Appeal Hearing: 1001 California St. M001-93A  
(acpt. 5/19)

Old Business: Statutes of Limitations

##### July 14, 1992 - NO MEETING

#### XI. Adjournment

President Hammill adjourned the meeting at 9:01 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
June 23, 1992

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

TIM CARRICO

MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1615 Jones St. #3	M002-01A
B. 2233 Divisadero St. #201	M002-02A & M002-48R
C. 11 Dolores St.	M001-99A
D. 610 Hyde St. #406	M002-03A
E. 136 - 6th St. #3	M002-50R

VI. Communications

VII. Director's Report

VIII. Consideration of Allegations of Wrongful Evictions

Updates and Reports:

A. 3973 - 18th St. #1	L003-67E
B. 1226 - 34th Avenue	M002-25E
C. 450 Alabama St.	H001-03X

IX. Old Business

1. Statutes of limitations	
2. 1381 Filbert Street	M001-79A
	(cont. from 6/16)

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Old Business (cont.)

XIII. Adjournment

0178M

DEPARTMENT 1444  
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JUN 24 1992

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

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MAMIE HOW  
POLLY MARSHALL  
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MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, June 23, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

President Hammill called the meeting to order at 5:32 p.m.

II. Roll Call

Commissioners Present:	Hammill; Rossoff; Schlichtmann; Stephenson; Villa.
Commissioners not Present:	Carrico; Marshall; McGoldrick.
Staff Present:	Ruiz; Wolf.

Commissioner How appeared on the record at 5:40 p.m.  
Director Joe Grubb appeared on the record at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 16, 1992, with  
the following correction: Commissioner Rossoff  
went off the record at 6:30 p.m.  
(Stephenson/Rossoff: 5-0)

IV. Consideration of Appeals

A. 1615 Jones St. #3 M002-15A

The tenant's petition regarding decreased housing services was granted, in part, by the hearing officer. The landlord appealed the \$20.00 per month reduction for mildew in the bathroom and \$20.00 per month for required repair of cracks and painting of the sleeping area. The Commissioners accepted the appeal and remanded the case to the same hearing officer only on the issue of when the rent reduction for the cracks repair and painting work should terminate. The landlord failed to appear at the remand hearing and the previous decision was adopted as the final decision. On appeal, the landlord alleges that he failed to receive notice of the hearing and submits a Declaration of Non-Receipt of Notice of Hearing to that effect.

MSC: To accept the appeal and remand to the same hearing officer. (Rossoff/Schlichtmann: 5-0)



B. 2233 Divisadero St. #201 M002-02A & M002-48R

The tenant's petition alleging decreased housing services was granted, in part; while the failure to repair portion of the petition was denied due to the tenant's failure to demonstrate that any of her claims had resulted in code violations. Other conditions were not found to be substantial decreases in housing services. Both the landlord and tenant appeal. The landlord appeals the amount granted the tenant (\$640.00). The tenant asserts that the following services have substantially decreased: maintenance of the garbage area; provision of a secure exterior garage door; properly cleaned and maintained garages, elevator, and building stairways and exterior.

MSC: To deny both the landlord and tenant appeals.  
(Rossoff/Schlichtmann: 5-0)

C. 11 Dolores Street M001-99A

The landlord's petition for rent increases due to increased operating and maintenance expenses was denied. The hearing officer determined that the landlord's Year 1 expenses for management, repairs, pest control and maintenance were previously disallowed by the decision in Case No. L001-26L; and that the decision was final. Therefore, expenses incurred for repair of a solar panel were not considered, as there were no prior year repair expenses for purposes of comparison. On appeal, the landlord alleges that the resulting denial of his petition is unfair, as the solar work cost in excess of \$13,000.00.

MSC: In the interest of fairness and justice, to accept the appeal and schedule a Board hearing on the issue of passthrough of the solar panel system as a capital improvement or operating expense. In addition, staff will notify the tenants of their rights to assert defenses where appropriate and to provide evidence of economic hardship, if applicable. The landlord shall be apprised of his right to submit additional documentation as to the prior year's repair expenses, if available.  
(Rossoff/How: (5-0)

D. 610 Hyde St. #406 M002-03A

The tenant's petition alleging a substantial decrease in housing services, an unlawful rent increase, and an improperly calculated PG&E passthrough was granted. On appeal, the landlord maintains that he has not given the tenant an unlawful rent increase; that the tenant was advised when he moved in that the entry buzzer system would be deactivated during



certain hours; that the hot water pressure had been repaired; and, that he had misinterpreted the PG&E passthrough calculations.

MSC: To deny the appeal. (Stephenson/Rossoff: 5-0)

E. 136 - 6th Street #3 M002-50R

The tenant's petition alleging decreased housing services was denied by the hearing officer, who found that the tenant had failed to notify the landlord as to the condition of the carpet in his unit and that other issues already heard and decided in previous decisions were res judicata. On appeal, the tenant alleges that all of his complaints regarding violations by the landlord have not been heard.

MSC: To deny the appeal. (Rossoff/Schlichtmann: 5-0)

V. Communications

The Commissioners received the following communications:

- A. Memo from Hearing Officer, Deborah Lim, regarding 11 Dolores Street, Case No. M001-00A, before the Commissioners on this date.
- B. The Appeal decision for the case at 3840 Folsom Street #4 (M001-69A) which was approved by the Board and signed by President Hammill.

VI. Director's Report:

A. The Deputy Director informed the Commissioners that the Director was appearing before the Finance Committee regarding the departmental budget.

B. The Deputy Director informed the Commissioners that the UMB legislation regarding tenant rights and the Rent Board certification process was passed by the Board of Supervisors' City Services Committee and that the UMB Ordinance will be heard on July 6th by the full Board starting at 2 P.M.

C. The Director informed the Commissioners that he would be recruiting for temporary hearing officers to assume part-time positions to fill in for personnel who will be on maternity leave or reduced work hours.

D. The Director reported that the departmental budget was presented before the Finance Committee.

VII. Consideration of Allegations of Wrongful Evictions

The Rent Board Supervisor, Pedro J. Ruiz, updated the Commissioners on the following cases which had been referred to the District Attorney and the current status and action taken by that agency.

A. 3973 - 18th St. #1	L003-67E
B. 1226 - 34th Ave.	M002-25E
C. 450 Alabama St.	H001-03X

VIII. Old Business

1381 Filbert Street	M001-79A
	(cont. from 6/16)

The hearing in this case was held on January 16, 1992. At that time the Commissioners continued the case for one week in order for staff to calculate the amount of the overpayments if just the garbage overcharges were refunded. After discussion and review of the overpayment calculations, the Commissioners passed the following motion:

MSC: To refund overpayments in the amount of \$360.00 due to unlawful garbage charges, in addition to readjusting the resulting incorrect base rents.  
(How/Schlichtmann: 5-0)

IX. Calendar Items

June 30, 1992 - NO MEETING

July 7, 1992

6 appeal considerations  
6:00 Appeal Hearing: 1001 California St. M001-93A  
(cont. from 6/16)  
Old Business: Statutes of Limitations

July 14, 1992 - NO MEETING

July 21, 1992

1 appeal consideration  
6:00 Appeal Hearing: 3011 Steiner St. #B M001-98A  
(acpt. 6/16)

X. Adjournment

President Hammill adjourned the meeting at 6:35 p.m.



193  
VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

July 7, 1992

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25 Van Ness Avenue, #70, Lower Level

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AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Executive Session

Govt. Code Section 54956.9(a)&(b)  
*Scharf v. S.F. Rent Board*, Superior Court #938-779

- V. Remarks from the Public
- VI. Consideration of Appeals

A. 1666 -27th Avenue	M002-51R
B. 468 Fell Street, #4	M002-52R
C. 2890 California St., #603, #605	M002-04A
D. 940 Post Street, #2	M002-54R & 55R
E. 247 Leavenworth St., #6 & #3	M002-53R & M002-49R

- VII. Communications
- VIII. Director's Report
- IX. Consideration of Allegations of Wrongful Evictions
- X. Old Business  
Statutes of Limitation
- XI. Remarks from the Public (cont.)
- XII. New Business
- XIII. Appeal Hearing
- 6:00 1001 California Street M001-39A (acpt. 5/129)
- XIV. Calendar Items
- XV. Old Business (cont.)
- XVI. Adjournment

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WILLIAM VILLA

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, July 7, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

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JUL 21 1992

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I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Hammill; How; Marshall;  
McGoldrick; Rossoff;  
Schlichtmann; Villa.  
Commissioners not Present: Stephenson.  
Staff Present: Gartzman; Grubb.

Commissioner Carrico appeared on the record at 5:39 p.m.

III. Executive Session

At 5:40 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54956(a)&(b) to discuss the pending lawsuit of Scharf v. S.F. Rent Board, Superior Court Case No. 938-779. A representative from the City Attorney's office presented a proposed settlement of the litigation. After it was discussed, the Commissioners unanimously passed the following motion:

MSC: To allow the City Attorney to prepare a stipulation to remand the case to the Rent Board to consider the merits of the landlord's appeal, on the condition that the landlord agrees to refrain from filing a writ to challenge the Board's decision on appeal and that the landlord agrees to waive attorney fees. (Marshall/Schlichtmann: 5-0)

IV. Approval of the Minutes

MSC: To approve the Minutes of June 23, 1992, with the following correction: Under Old Business, the hearing in Case No. M001-79A (1381 Filbert Street) was held on on June 16, 1992, not January 16, 1992.

V. Consideration of Appeals

A. 1666 - 27th Avenue M002-51R

The tenant's petition based on decreased housing services was denied by the Hearing Officer because the landlord promptly responded each time the tenant complained about an overflowing toilet. Although the tenant continued to experience problems with the toilet, nine months elapsed before the tenant complained again. After this complaint, the landlord promptly replaced the toilet and resolved the problem. The tenant appeals the denial of her petition, alleging that the landlord's initial efforts to repair the toilet were not sincere.

MSC: To deny the appeal. (How/Schlichtmann: 5-0)

B. 468 Fell Street M002-52R

The tenant's petition alleging an unlawful rent increase was dismissed because the tenant failed to appear at the hearing or to file a written excuse for non-appearance. On appeal, the tenant submits a Declaration of Non-Receipt of Notice of Hearing, claiming that his mailbox was broken and not secure.

MSC: To accept the appeal and remand the case for a new hearing. (Villa/Marshall: 5-0)

C. 2890 California Street M002-04A  
#603 and #605

Two tenants were granted rent reductions based on the periodic loss of elevator service between January 1991 and February 1992. On appeal, the landlord presents new evidence of elevator repairs and loss of service in an attempt to demonstrate that the tenants exaggerated the extent of the loss and that the landlord made prompt repairs. The tenants oppose the introduction of new evidence at the appeal level and claim that the new evidence was "manufactured" solely for purposes of the appeal.

MSC: To deny the appeal. (Marshall/McGoldrick: 4-1;  
Carrico dissenting)

D. 940 Post Street #2 M002-54R, M002-55R

The co-tenants of the subject unit filed separate appeals of the Hearing Officer's denial of their petition alleging an unlawful rent increase. One of the tenants was hired as the resident manager in exchange for a rent-free unit. Prior to commencement of the employment relationship, the manager and landlord negotiated an agreement allowing either party to terminate the employment relationship, but reserving the manager's right to remain in the unit as a tenant at a monthly

rent of \$715.00. The parties submitted an unsigned copy of the agreement to the hearing officer. After the building manager was injured on the job and could not perform his job duties, he paid rent of \$300.00 to the assistant manager, his former subordinate, for two months. The tenants unilaterally selected a rent amount of \$300.00 as the maximum they could afford and to "buy time" with the landlord. The assistant manager gave the manager rent receipts marked "paid in full." The landlord accepted and cashed both rent payments. At the end of the second month, the landlord served the tenants with a three-day notice to pay rent or quit, demanding the balance of \$715.00 for both months. The tenant's next rent check of \$300.00 was rejected and a three-day notice was issued for \$715.00. The Hearing Officer determined that the landlord's demand for \$715.00 was not an unlawful rent increase, and that the landlord's acceptance of \$300.00 for rent was not a novation of the parties' original agreement or the creation of a new rental agreement. On appeal, the tenants contend: (1) The Hearing Officer erroneously created a good faith exception to the Rent Ordinance; (2) The decision is based solely on hearsay evidence; (3) The landlord's acceptance of \$300.00 created a tenancy by operation of law; and (4) The landlord's acceptance of \$300.00 effected a novation or accord and satisfaction of the original agreement.

MSC: To deny the appeal. (Carrico/How: 5-0)

E. 747 Leavenworth Street M002-49R, M002-53R  
#3 and #6

The tenants of two units appeal the certification of capital improvement costs for plumbing and electrical work, claiming that the landlord failed to provide adequate documentation to meet his burden of proof because the payments were made in cash. They also appeal the decision because an estimator was not hired by the Rent Board and no other bids were provided by the landlord. The tenant of unit 6 separately appeals the decision because the landlord did not provide the tenant with a copy of his post-hearing submission. The tenant of unit 3 separately appeals the decision because she does not believe the installation of electric heaters was necessary and the cost was excessive.

MSC: To deny the appeals. (Carrico/How: 5-0)

#### VI. Appeal Hearing

1001 California Street #2B M001-93A

Pursuant to a tenant's petition alleging unlawful rent increases, the landlord was found liable to the tenant for rent overpayments in the amount of \$9,675.74 for the period from November 1983 through April 1992. The Hearing Officer found that a 1983 rent increase was null and void because a capital



improvement passthrough and utility passthrough were included in the base rent for purposes of calculating the annual rent increase. The 1991 rent increase was also determined to be unlawful because it was calculated on an incorrect base rent amount and incorrect base rent date and because it exceeded the sum of the allowable annual and banked rent increases. On appeal, the landlord alleges that (1) The 1983 base rent was determined in a 1986 Rent Board decision and cannot be decided differently in 1992 based on principles of res judicata; (2) It is not clear that the 1983 rent increase includes a capital improvement passthrough and utility passthrough in the base rent for purposes of calculating the annual rent increase; and, (3) The 1991 rent increase should not be declared null and void because the tenant unreasonably delayed in filing her Rent Board petition after receipt of the 1991 notice of rent increase. The Board accepted the appeal for hearing on the null and void rent increases.

At the hearing, the landlord appeared with a non-attorney representative. The tenant appeared with an attorney and a witness. At the hearing, the parties stipulated to a base rent of \$1,373.88 as of November 1983. The only remaining issue is the lawfulness of the June 1991 rent increase. Testimony focused on the circumstances surrounding the calculation of the June 1991 rent increase and on events occurring between the service of the notice of rent increase and the filing of the tenant's petition, including a bankruptcy proceeding initiated by the landlord.

After discussion and review of the evidence, the Commissioners unanimously agreed to continue consideration of the matter until July 21, 1992. Staff was requested to make two calculations of rent overpayments. The first calculation is to be based on a finding that the June 1991 rent increase is null and void because it exceeds the sum of the allowable annual and banked rent increases. The second calculation is to be based on a 1991 rent which is readjusted to reflect the allowable amount of annual and banked rent increases as of June 1991.

## VII. Old Business

### Statutes of Limitation

After discussion of the various scenarios submitted by staff and the merits of each, the following motion was made:

MSC: To establish a three year limitation on the refund of rent overpayments from the date of the filing of a petition, and including any amounts accruing between the filing of the petition and the issuance of the decision, and to establish a seven year limitation on the certification of capital improvement costs from the date of completion of the improvement. (How/Schlichtmann: 5-0)



VIII. Communications

The Commissioners received the following communications:

- A. Submissions from Mr. Andy Braden concerning the appeal hearing for 1001 California Street (M001-39A);
- B. A brief from the tenants' attorney for an appeal consideration for 940 Post Street #2 (M002-54R and M002-55R).

IX. Director's Report

- A. An Ordinance amendment concerning refunds of rent overpayments was signed by the Mayor and will become effective July 23, 1992.
- B. The entire Unreinforced Masonry Building ordinance package was passed for first reading at the Board of Supervisors on July 6, 1992.
- C. The Rent Board's outreach brochure is printed but it will not be distributed until the new Ordinance amendment takes effect since there is a reference to its substance in the brochure.
- D. There is a hiring freeze in place and the department has also had a vacancy in a clerical position which was vacated by Debbi Jackson. The department will be attempting to obtain approval of the requisition in any event.

X. Calendar Items

July 21, 1992

5 appeal considerations

6:00 Appeal Hearing: 3011 Steiner St. #B M001-98A  
(acpt. 6/16/92)

Old Business: 1001 California St. #2B M001-93A  
(cont. from 7/7/92)

July 28, 1992

3 appeal considerations

6:00 Appeal Hearing: 11 Dolores Street M001-99A  
(acpt. 6/23/92)

New Business: Budget

August 4, 1992

2 appeal considerations

XI. Adjournment

President Hammill adjourned the meeting at 9:15 p.m..





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

July 21, 1992

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

JILL SCHLICHTMANN  
VICE-PRESIDENT

AGENDA

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JUL 21 1992

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MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 182 Albion Street M002-57R
  - B. 665 Geary Street, #207 M002-58R
  - C. 184 Albion Street M002-60R
  - D. 460 Fell Street, #8 M002-59R
  - E. 479 Sanchez (cont. from 7/7) M002-56R
- VI. Appeal Hearing
  - 6:00 3011 Steiner Street M001-98A (acpt. 6/16/92)
- VII. Executive Session
  - Personnel Matters - Govt. Code Section 54957
- VIII. Old Business
  - 1001 California Street #2B M001-39A
  - Appeal Hearing (cont. from 7/7/92)
- IX. Communications
- X. Director's Report
- XI. Consideration of Allegations of Wrongful Evictions
- XII. Remarks from the Public (cont.)
- XIII. New Business
- XIV. Calendar Items
- XV. Old Business (cont.)
- XVI. Adjournment

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, July 21, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:38 p.m..

II. Roll Call

Commissioners Present:	Hammill; How; Marshall; Rossoff; Schlichtmann.
Commissioners not Present:	McGoldrick; Stephenson; Villa.
Staff Present:	Gartzman; Grubb.

Commissioner Carrico appeared on the record at 5:54 p.m..

III. Approval of the Minutes

MSC: To approve the minutes of July 7, 1992.  
(Marshall/Rossoff: 5-0)

IV. Remarks from the Public

A tenant from 479 Sanchez Street informed the Commissioners that additional information was submitted on July 21, 1992 in support of the appeal for that property.

V. Consideration of Appeals

A. 182-184 Albion Street M002-57R and M002-60R

The tenants of two units appeal the passthrough of certified capital improvement costs and the approval of a rent increase based on increased operating and maintenance expenses. The tenant of 182 Albion alleges that the landlords are not entitled to the increased rent because they have harrassed the tenant and have not made needed repairs. Furthermore, the tenant could not pay the increase until the end of August 1992 due to cash flow problems. The tenant of 184 Albion, a student, alleges that payment of the increase would be an extreme financial hardship.

MSC: To deny the appeal for 182 Albion Street.  
(Schlichtmann/How: 5-0)

MSC: To accept the appeal for 184 Albion Street and to hold a Board hearing on the issue of financial hardship to the tenant. (Marshall/Hamill: 4-1; Rossoff dissenting)

B. 665 Geary Street, #207 M002-58R

The tenant's petition alleging that the landlord: (1) failed to do requested repair and maintenance that is required by law; and (2) unlawfully increased the tenant's rent above established limitations, was dismissed because the tenant failed to appear at the hearing or to file a written excuse for non-appearance. On appeal, the tenant submits a Declaration of Non-receipt of Notice of Hearing, claiming that his mail was left in a common area while he was out of town.

MSC: To accept the appeal and remand the case for a new hearing. (Rossoff/How: 5-0)

C. 460 Fell Street, #8 M002-59R

The tenant's petition alleging substantially decreased housing services was denied by the Hearing Officer. The Rent Board accepted the tenants' appeal of that decision and remanded the case to the same Hearing Officer on the issue of the mushrooms only. On remand, the Hearing Officer did not find that a rent reduction was warranted because the landlord's testimony, evidence and witness denying the existence of mushrooms was credible. On appeal, the tenant alleges the following: (1) the Hearing Officer is biased; (2) the Hearing Officer ignored relevant evidence; (3) the Hearing Officer erred by crediting the landlord's testimony and evidence; and, (4) the findings and conclusions are contrary to the evidence presented at the hearing.

MSC: To deny the appeal. (Rossoff/How: 5-0)

D. 479 Sanchez Street M002-56R

The tenants' petition based on decreased housing services and the landlords' failure to make requested repairs and maintenance as required by law was denied by the Hearing Officer because the tenants failed to establish that they gave the landlords verifiable notice of the problems and/or that the problems were substantial and/or that the conditions constituted violations of state or local law. On appeal, the tenants contend that the landlords committed perjury and that there are discrepancies between the testimony and evidence presented at the hearing and the findings of fact.

MSC: To deny the appeal.  
(Schlichtmann/Rossoff: 5-0)

VI. Old Business

1001 California Street, #2B M001-39A (cont. from 7/7/92)

After review of staff's memo and discussion of rent overpayment calculations, the Commissioners passed the following motion:

MSC: To find that the June 1, 1991 rent increase is null and void because it exceeds the sum of the allowable annual and banked rent increases; to allow the imposition of all annual and banked rent increases (32%) effective June 1, 1992 and to calculate this increase on the correct base rent of \$1,373.88; to establish a base rent of \$1,813.52 effective June 1, 1992, with the total rent (including a capital improvement passthrough of \$22.21) being \$1,835.72 until October 1, 1992; to discontinue the capital improvement passthrough of \$22.21 on October 1, 1992, reducing the total rent to \$1,813.52 on that date; to find the landlord liable to the tenant for rent overpayments totalling \$7,262.34 for the period from November 1983 through July 1992; and to order the landlord to refund rent overpayments to the tenant or to allow the tenant to offset the amount against future rents, provided that this portion of the order shall not take effect before July 24, 1992.  
(Marshall/Schlichtmann: 5-0)

VII. Appeal Hearing

3011 Steiner Street M001-98A

After the hearing was closed, and before the Commissioners made a decision on the appeal, the parties reached a settlement of this matter. The landlord, through his representatives, withdrew his appeal. Within two weeks, the landlord's attorney will prepare and submit a written settlement agreement for the approval and signature of the Board president.

VIII. Director's Report

A. The Department has hired two part-time Hearing Officers, Lela Harris and Norma Molinar, to job-share positions with existing full-time Hearing Officers Debbie Lim and Rennika Pickman-Thoon.



- B. The Director will not attend the August 4, 1992 Board meeting as he has been invited to former Commissioner Astle's class as a guest speaker.
- C. Due to the low number of appeal considerations, there will be no Board meeting on August 11, 1992.
- D. The landlord's attorney in the Levy case has notified the City Attorney that he may request attorney fees from the Board.

IX. Communications

The Commissioners received the following communications:

- A. A memo from the senior hearing officer regarding requested overpayment calculations for Appeal No. M001-39A (1001 California Street, #2B)
- B. A memo from the executive director to the City Attorney regarding the proposed revised statutes of limitations on refund of rent overpayments and certification of capital improvement costs.
- C. Submissions from Gregory Tenhoff of Orrick, Herrington & Sutcliffe concerning the appeal consideration for 184 Albion Street (M002-60R).
- D. Submissions from Andrew Gold, the landlord's attorney, concerning the appeal hearing for 3011 Steiner Street (M001-98A).

X. Executive Session

At approximately 7:25 p.m., the Commissioners went into Executive Session pursuant to Government Code Section 54957 to discuss personnel matters and returned on the record at 7:45 p.m.

XI. Calendar Items

July 28, 1992

3 appeal considerations

6:00 Appeal Hearing: 11 Dolores Street M001-99A  
(acpt. 6/23/92)

New Business: Budget

August 4, 1992

2 appeal considerations

August 11, 1992

No Meeting

XII. Adjournment

President Hammill adjourned the meeting at 7:48 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
July 28, 1992

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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- |    |                               |                                  |
|----|-------------------------------|----------------------------------|
| A. | 191 Frederick Street, #36     | N001-01R                         |
| B. | 543 Buena Vista West, #1 & #2 | N001-01A; N001-02R<br>& N001-03R |

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- X. Remarks from the Public (cont.)
- XI. New Business  
Budget
- XII. Appeal Hearing  
6:00 11 Dolores Street M001-99A (Acpt. 6/23/92)
- XIII. Calendar Items
- XIV. Calendar Items
- XV. Old Business (cont.)
- XVI. Adjournment

0186M





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, August 4, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

Vice-President Schlichtmann called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	McGoldrick; Rossoff; Schlichtmann.
Commissioners not Present:	Carrico; Hammill; Marshall; Stephenson; Villa.
Staff Present:	Ruiz.

Commissioner How appeared on the record at 5:44 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 28, 1992.  
(McGoldrick/Schlichtmann: 3-0)

IV. Consideration of Appeals

A. 1453 Green Street N001-04R

The tenant's petition alleging substantially decreased housing services due to loss of a garage was denied but the portion of the petition alleging unlawful rent increases was granted. However, the Hearing Officer determined that no sums were owed by either party because the tenant's rent payments and credits equalled exactly the amount due for rent. On appeal, the tenant contends that the amount of overpayments determined by the Hearing Officer is in error because that issue has since been resolved by the Probate Court and the Rent Board has no jurisdiction.

MSC: To deny the appeal. (Rossoff/Schlichtmann: 3-0)

B. 422-A Vallejo Street N001-02A

The tenant's petition alleging that the landlord: (1) unlawfully increased the tenant's rent; and (2) substantially decreased housing services was granted by the Hearing Officer, and an 80% reduction in rent was ordered due to egregious habitability

problems in the unit. On appeal, the landlord contends that the Hearing Officer's determination of the base rent is in error and that the allegations of decreased housing services are false.

MSC: To deny the appeal. (Rossoff/McGoldrick: 4-0)

V. Communications

The Commissioners received a copy of a memorandum to Executive Director Joe Grubb from Citizens' Complaint Officer Ernestine Cade-Hill, requesting a hearing regarding pending disciplinary action.

VI. Consideration of Allegations of Wrongful Evictions

Pedro J. Ruiz, Rent Board Supervisor, reported to the Commissioners regarding the current operations of the Eviction Unit.

VII. Calendar Items

August 11, 1992 - NO MEETING.

August 18, 1992

5 appeal considerations

August 25, 1992

5 appeal considerations

September 1, 1992

1 appeal consideration

6:00 Appeal Hearing: 184 Albion St.

M002-60R  
(accepted 7/21/92)

VIII. Adjournment

Vice-President Schlichtmann adjourned the meeting at 5:59 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
August 18, 1992

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
  - II. Roll Call
  - III. Approval of the Minutes
  - IV. Remarks from the Public
  - V. Consideration of Appeals
    - A. 543 Buena Vista West. N001-01A  
#1 & #2 (Cont. from 7/28)
    - B. 765 Sutter St. #405 N001-04A
    - C. 265 Arkansas St. N001-03A
    - D. 1079 Clayton St. N001-05A
    - F. 1650 Octavia St. N001-06A
  - VI. Communications
  - VII. Director's Report
  - VIII. Consideration of Allegations of Wrongful Evictions
  - IX. Old Business
  - X. Remarks from the Public (cont.)
  - XI. New Business
  - XII. Calendar Items
  - XIII. Old Business (cont.)
  - XIV. Adjournment
- 0190M





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, August 18, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:37 p.m..

II. Roll Call

Commissioners Present:	Carrico; Hammill; McGoldrick; Rossoff; Schlichtmann.
Commissioners not Present:	Stephenson; Villa.
Staff Present:	Gartzman; Grubb.

Commissioner Marshall appeared on the record at 5:40 p.m..  
Commissioner How appeared on the record at 5:45 p.m..

III. Approval of the Minutes

MSC: To approve the minutes of August 4, 1992.  
(Carrico/McGoldrick: 3-0)

IV. Remarks from the Public

Al Goodwin inquired about the recent implementation of the expedited hearing process. The Director reported that there have been five expedited hearings to date, including four on tenant petitions and one on a capital improvement petition. Information concerning the expedited hearing process has been mailed to regular users of the Rent Board.

V. Consideration of Appeals

A. 543 Buena Vista West NO01-01A  
#1 & #2 (Cont. from 7/28/92)  
Hearing Officer: Wicks

At their meeting of July 28, 1992, the Rent Board Commissioners voted to deny the landlord's appeal as to all issues except for fair return, which issue was continued to the August 18, 1992 meeting in order to obtain a report from staff. At the meeting of August 18, 1992, staff provided the Commissioners with information concerning use of the "net operating income" standard in fair

return cases, as well as information on the "cash flow" and "return on equity" standards. The Commissioners requested additional information from staff.

MSC: To continue consideration of this matter until September 15, 1992. (Carrico/McGoldrick: 5-0)

B. 765 Sutter St. #405 N001-04A  
Hearing Officer: Pickman-Thoon

The tenant filed a petition alleging substantially decreased housing services based on several defective conditions in his unit and the common areas of the building. The tenant failed to appear at the original hearing and his petition was dismissed. The case was remanded for a new hearing pursuant to the tenant's appeal. After the first remand hearing, a decision was issued partially granting the tenant's petition. The landlord failed to appear at the first remand hearing and filed an appeal of the decision, claiming non-receipt of the notice of hearing. The case was remanded for a new hearing pursuant to the landlord's appeal. After the second remand hearing, a decision was issued partially granting the tenant's petition. The landlord was ordered to refund to the tenant rent reductions totalling \$704.00 (\$176.00/month) based on loss of use of the bedroom due to a roof leak and ceiling damage. The landlord filed an untimely appeal of the second remand decision, alleging that the hearing officer is biased and that there was no decrease in housing services.

MSC: To excuse Commissioner Schlichtmann from consideration of the appeal. (Marshall/Howe: 5-0)

MSC: To find good cause for acceptance of the late appeal. (How/McGoldrick: 4-0)

MSC: To deny the appeal. (Marshall/McGoldrick: 4-0)

C. 265 Arkansas St. N001-03A  
Hearing Officer: Pickman-Thoon

The tenant's petition alleging that the landlord substantially decreased housing services and failed to make requested repairs and maintenance as required by law was granted. The landlord was ordered to refund to the tenant rent reductions totalling \$606.25 based on a defective heater (\$20.00/month), ceiling leaks and rotting sheetrock (\$35.00/month) and rear door leaks (\$15.00/month). The tenant's base rent was reduced by \$70.00 per month commencing August 1, 1992 until these defective conditions are repaired. Additionally, a proposed rent increase of \$36.00 was deferred commencing February 1, 1992 until the landlord completed repairs to the heater, water leaks and water damage. The landlord was ordered to refund to the tenant a total of \$216.00, which includes payment of the rent increase for the six months prior to the decision. The landlord did not appear at the 0191M

hearing. He had requested a postponement of the hearing on two occasions, both of which were denied for lack of good cause. On appeal, the landlord argues that he attempted to demonstrate good cause for the postponement requests and that he did not appear for the hearing because he was not informed prior to the hearing that his second request for postponement was denied.

MSW: To deny the appeal. (McGoldrick/Carrico)

MSC: To remand the case to the same Hearing Officer for a new hearing on all issues. (How/Carrico: 5-0)

D. 1079 Clayton St. N001-05A  
Hearing Officer: Wicks

The tenant's petition alleging unlawful rent increases was granted and the landlords were found liable to the tenant for rent overpayments totalling \$27,258.32, resulting from null and void rent increases in 1983 and 1984. On appeal, the landlord makes the following arguments: (1) There is no authority in the Ordinance to support the granting of an award of back rent pursuant to the appellate court decision in the DaVinci case; (2) The decision in this matter is advisory and advisory opinions are not permitted; (3) The tenant's petition is barred by the equitable doctrine of laches because the landlord is prejudiced by the length of time that has elapsed since the time of the alleged wrongful rent increases.

MSW: To deny the appeal. (Marshall/McGoldrick)

MSC: To accept the appeal for a Board hearing on the issue of laches and any other equitable defenses, including fundamental fairness to the parties; to request each party to submit a written brief of no more than ten pages regarding the elements of the laches defense and the findings required by law to apply the defense of laches in this case. (Marshall/Schlichtmann: 5-0)

E. 1650 Octavia St. N001-06A  
Hearing Officer: Wicks

The landlord appeals the decision of hearing officer which certified capital improvement costs and granted rent reductions to tenants of fifteen units based on substantially decreased housing services. The appeal is "skeletal" and filed for the purpose of preserving the landlord's right to appeal. The landlord alleges five grounds for appeal: (1) Erroneous conclusions of law; (2) Erroneous findings of fact; (3) Abuse of discretion of Hearing Officer; (4) Failure of Hearing Officer to comply with Ordinance or Regulations; and, (5) Procedural irregularities in conduct of hearing. The landlord filed a request to postpone consideration of the appeal because some petitions are in the process of being 0191M

settled, the landlord's attorney would not be available for the appeal consideration and some objections were filed and not served.

MSC: To continue consideration of the appeal to September 15, 1992. (Carrico/How: 5-0)

VI. Communications

The Commissioners received the following communications:

- A. A memo from the Director to the Clerk of the Board of Supervisors regarding the Rent Board's recycling and resource conservation efforts.
- B. The Annual Summary of all petitions filed in fiscal year 91/92 and in all fiscal years since 79/80.
- C. A draft Board Decision on Appeal in Appeal No. M001-79A for 1381 Filbert Street.
- D. A draft Board Decision on Appeal in Appeal No. M001-93A for 1001 California Street, #2B, which was read and approved for signature at the meeting.
- E. An appeal response from Hearing Officer Pickman-Thoon for Appeal Nos. N001-07R through N001-10R, N001-10R and N001-16R (1100 Gough Street) to be considered August 25, 1992.
- F. A Determination from the U.S. Equal Employment Opportunity Commission on a race discrimination charge, which exonerates the department of the charge.
- G. A request for continuance of the consideration of the landlord's appeal in Appeal No. N001-06A (1650 Octavia Street), filed by Charles Connors, III, the landlord's attorney.
- H. A copy of portions of a Rutgers Law Review article on fair return and portions of a prior Decision of Hearing Officer on fair return, in conjunction with Appeal No. N001-01A (543 Buena Vista West).

VI. Director's Report

- A. Additional statistics will be provided at the next Board meeting.
- B. The Commissioners were reminded that they are required to notify the Director whenever they leave the state.

- C. The department is meeting the Board of Supervisor's mandate to reduce office supply consumption and paper conservation through the recycling of cassette tapes at an annual approximate savings of \$1200-\$1300.

VII. Remarks from the Public (cont.)

Al Goodwin inquired about the Board's policy concerning consideration of the laches defense. He also made a suggestion as to how paper could be conserved.

VIII. New Business

Commissioner Rossoff announced an upcoming seminar/symposium sponsored by the Apartment House Association on September 3, 1992 from 9:00 a.m. to 6:00 p.m. at the new Marriott Hotel in San Francisco. The Rent Board has been requested to provide 1500 copies of its brochure for distribution and to provide at least one staff person to answer inquiries about the Ordinance.

IX. Calendar Items

August 25, 1992

6 appeal considerations

Old Business: Attorney Ethics - 118A - 27th Street  
(M001-62A)

September 1, 1992

6 appeal considerations

6:00 Appeal Hearing: 184 Albion St. M002-60R (acpt. 7/21/92)

September 8, 1992

No Meeting

X. Adjournment

President Hammill adjourned the meeting at 6:45 p.m..







VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
August 25, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- A. 2280 Pacific Ave. #604 N001-05R
- B. 509 & 511 Dolores St. N001-07A
- C. 1100 Gough St.  
#15F, 12A, 10D, 12C, 10C N001-07R - N001-10R, N001-16R  
#10C&D, 11E&F, 12A&C, 15F N001-08A
- D. 793 C & A Valencia St. N001-06R & N001-12R
- E. 1040 Dolores  
#304, 204 and 301 N001-09A, N001-11R, N001-13R

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business  
Attorney Ethics - 118A - 27th St. (M001-62A)
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, August 25, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Carrico; Hammill; Rossoff; Schlichtmann; Stephenson.
Commissioners not Present:	How; Marshall; McGoldrick; Villa.
Staff Present:	Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of August 18, 1992.  
(Schlichtmann/Stephenson: 4-0)

IV. Consideration of Appeals

A. 2280 Pacific Ave. #604 N001-05R

Eight tenants petitioned regarding decreased housing services at the subject property, and were granted rent reductions due to elevator dysfunction; lack of a competent resident manager; inadequate garbage receptacles, lighting, and mailboxes; and lack of pest control. Two tenants in one unit appeal the decision, because they were not granted rent reductions for the elevator and resident manager issues. The hearing officer found that the tenants were not at the building during the time the elevator was out of order, as their principal place of residence is in Ukiah; and that they failed to raise the resident manager issue in their petition.

MSC: To deny the appeal. (Schlichtmann/Carrico: 4-0)

B. 509 & 511 Dolores St. N001-07A

The landlord's appeal was filed 4 days late because he allegedly believed that "must be filed" meant must be "postmarked" within the 15-day deadline.

MSC: To find good cause for the late filing of this appeal.  
(Schlichtmann/Carrico: 4-0)

The landlord's petition for rent increases due to comparables was denied by the hearing officer, who found no "special relationship" between the prior landlord and the tenants, as required by Rules Section 6.11, nor that the rents were set "very low" at the commencement of the tenancies. On appeal, the landlord asserts that fraudulent practices on the part of the prior owner constitute extraordinary circumstances, because the rents collected were a very small portion of the cash flow from the property. He also asserts that rents at 40% below market are indeed "very low"; and that even if he availed himself of banked and operating expense increases, his negative cash flow would still force him to sell the building.

MSC: To deny the appeal based on the evidence at this time.  
(Stephenson/Carrico: 4-0)

C. 1100 Gough St. #15F, N001-07R - N001-10R,  
12A, 10D, 12C, 10C & N001-16R & N001-08A  
10C&D, 11E&F, 12A&C, 15F

The tenant in unit #10D filed his appeal 1 day late, allegedly because his assignment as a flight attendant for an international airline kept him away during the busy summer season. The tenant in unit #10C filed his appeal 20 days late because he was out of town; copies of plane tickets were submitted with the appeal.

MSC: To find good cause for the late filing of both  
appeals. (Carrico/Schlichtmann: 4-0)

Seven tenants in this 19-story building were granted rent reductions due to faulty elevator service. The landlord appeals as to all units, alleging that there is no service reduction, as the elevator problems have existed for years; that the elevators function at a level commensurate with the age of the building; and that the building's owners are dealing with the problem as best they can. Five tenants appeal because the hearing officer granted rent reductions commencing from the time of verifiable notice of the problem from the individual tenant to the landlord, or the mailing of the tenant's petition. The tenants allege that they should be given the same period of rent reduction as tenants in the same building who filed prior petitions, because the building's ownership had been on notice regarding the problem for many years.

MSC: To deny both the landlord's and the tenants'  
appeals. (Stephenson/Schlichtmann: 4-0)

D. 793 C & A Valencia St. N001-06R & N001-12R

The landlord's petition for rent increases for two units resulted in the certification of a \$59.60 monthly capital improvement passthrough, the granting of a 7% operating expense increase, and the denial of the landlord's comparables claim. After appeal by 0194M

the landlord, the case was remanded to determine whether rent increase notices issued after the filing of the petition necessitated a correction to the decision. The remand decision determined the correct base rents and increases for each unit, and established that the effective date for the increases was July 1, 1991, the date of the landlord's notice. On appeal, the tenants in both units claim that having to pay the retroactive amounts presents a financial hardship.

MSC: To accept the appeals on the issue of financial hardship and schedule a hearing before the Board. (Schlichtmann/Stephenson: 4-0)

E. 1040 Dolores St. NO01-09A, NO01-11R  
#304, 204 and 301 & NO01-13R

The tenant in unit #301 filed her appeal two days late because she was out of town at the time the decision was mailed.

MSC: To find good cause for the late filing of the appeal. (Carrico/Schlichtmann: 4-0)

The landlord's petition for rent increases based on increased operating expenses was granted, and 7% increases were approved for the 12 units subject to this petition. The petitions filed by 4 tenants alleging failure to repair, decreased housing services and/or illegal rent increase(s) were denied, primarily due to lack of notice to the landlord. The landlord was, however, found liable to the tenant in unit #304 for rent overpayments in the amount of \$9,875.11. The landlord appeals on the issue of the rent overpayment, alleging that the Da Vinci decision precludes the Board from determining rent overcharges; and that allowing the tenant to withhold rent until the entire amount is recouped poses a financial hardship sufficient to force the sale of the building. Two tenants appeal the operating expense increases, asserting that the landlord failed to use the calculation periods mandated by Rules Section 6.10.

MSC: To deny the tenants' appeals. (Carrico/Schlichtmann: 4-0)

MSC: To accept the landlord's appeal and schedule a Board hearing on the issues of hardship, fairness and laches. (Carrico/Schlichtmann: 4-0)

#### V. Communications

In addition to communications regarding appeals on the calendar, the Commissioners received the following:

0194M

A. Various tables showing the number of petitions filed annually for the years 1979 through 1992.

B. The appeal decision for the case at 1381 Filbert Street (M001-79A), which was approved by the Board and signed by President Hammill.

VI. Director's Report

Executive Director Grubb informed the Board that the tables showing the agency's workload will be presented in graph form as well.

VII. Old Business

With regard to the issue of attorney ethics in the case at 118A - 27th St. (M001-62A), the Deputy Director provided the Commissioners with a copy of a draft Complaint to the State Bar of California, which will be submitted on behalf of the Board.

VIII. Remarks from the Public

Al Goodwin suggested that the confusion regarding the requisite filing periods for operating and maintenance expense petitions could be alleviated by changing the language on the landlord's petition.

IX. Calendar Items

September 1, 1992

6 appeal considerations  
Eviction Reports

6:00 Appeal Hearing: 184 Albion St. M002-60R (acpt. 7/21/92)

September 8, 1992 - NO MEETING

September 15, 1992

5 appeal considerations (2 cont. from 8/18/92)

6:00 Appeal Hearing: 1079 Clayton N001-05A (acpt. 8/18/92)

6:30 Appeal Hearing: 793C & A Valencia N001-06R & N001-12R  
(acpt. 8/25/92)

X. Adjournment

President Hammill adjourned the meeting at 6:25 p.m.



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
September 1, 1992

25 Van Ness Avenue, #70, Lower Level

AGENDA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- |    |                     |          |
|----|---------------------|----------|
| A. | 949 Capp St. #30    | N001-10A |
| B. | 1150 Union St. #704 | N001-14R |
| C. | 308 Bartlett St. #B | N001-15R |
| D. | 795 18th Ave.       | N001-11A |
| E. | 126 Palm Ave. #3    | N001-12A |
| F. | 1105B Page St.      | N001-13A |

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
- 6:00 184 Albion St. M002-60R (acpt. 7/21/92)
- XII. Calendar Items
- XIII. Adjournment

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

- MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, September 1, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

TIM CARRICO President Hammill called the meeting to order at 5:35 p.m.

MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present: Hammill; Rossoff;  
Schlichtmann; Stephenson.  
Commissioners not Present: Carrico; Marshall;  
McGoldrick; Villa.  
Staff Present: Grubb; Ruiz.

Commissioner How appeared on the record at 6:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of August 25, 1991.  
(Rossoff/Schlichtmann: 4-0)

IV. Consideration of Appeals

A. 949 Capp St. #30 N001-10A

The tenant's petition alleging substantially decreased housing services and an unlawful rent increase was granted, in part, by the Hearing Officer. Specifically, the tenant was granted \$700.00 for past rent overpayments; and, \$506.00 for a defective bedroom ceiling, lack of heat, reduced or lack of water service, decreased back stairs and laundry room lighting, and defective window shades. On appeal, the landlord contends that any sums owing should be offset against amounts withheld by the tenant; that most items had been repaired; that the landlord should be allowed to perform repairs before penalizing him; and, that the amount granted for the window shades is unreasonable.

MSC: To deny the appeal. (Rossoff/Schlichtmann: 4-0)

B. 1150 Union St. #704

N001-14R

The tenant's petition alleging decreased housing services due to building personnel working reduced hours was granted by the Hearing Officer. On appeal, the landlord contends that the Hearing Officer erred in her determination that the reduction of hours worked by building personnel constitutes a housing service; that the reduction occurred more than a year before the tenant complained; and, that the tenant failed to meet her burden of proof.

MSC: To excuse Commissioner Rossoff from consideration of this appeal. (Schlichtmann/Rossoff: 5-0)

MSC: To deny the appeal.  
(Stephenson/Schlichtmann: 4-0)

C. 308 Bartlett St. #8

N001-15R

The tenant's petition alleging substantially decreased housing services was dismissed with prejudice because he failed to appear at the hearing or to file a written excuse for non-appearance. On appeal, the tenant submits evidence of a work-related emergency.

MSC: To accept the appeal and remand the case for a new hearing.  
(Schlichtmann/Stephenson: 5-0)

D. 795 - 18th Ave.

N001-11A

The landlord's appeal was filed late because he was out of town when the decision was sent out.

MSC: To find good cause for the late filing of the appeal. (Rossoff/How: 5-0)

The tenant's petition alleging a substantial decrease in housing services and the landlord's failure to perform requested repairs was granted, in part, by the Hearing Officer. The tenant was granted rent reductions for a defective stove; leaking faucet; and a defective rear door. On appeal, the landlord contends that the periods used for establishing rent reductions are incorrect and that the amounts granted are inappropriate.

MSC: To accept the appeal and remand the case to the same Hearing Officer for a new hearing in order to determine precisely when the landlord received notice of the needed repairs, when repairs were completed, and to adjust the Order accordingly.  
(Rossoff/Stephenson: 5-0)

E. 126 Palm Ave. #3

N001-12A

The landlord's petition resulted in the certification of a \$78.70 monthly capital improvement passthrough for Unit #3. On appeal, the landlord contends that the Hearing Officer erred in discontinuing prior passthroughs in the amounts of \$6.59 and \$31.49 for items of work that were erroneously believed to no longer benefit the tenant.

MSC: To accept the appeal and remand the case on the record for numerical corrections based on the documents submitted by the landlord.  
(Schlichtmann/How: 5-0)

F. 1105B Page St.

N001-13A

The tenant's petition alleging a substantial decrease in housing services and the landlord's failure to repair and maintain was granted, in part, by the Hearing Officer. Specifically, the tenant was granted \$220.00 for poor bathroom conditions and the annual rent increase was deferred because the landlord failed to repair a defective toilet. On appeal, the landlord asserts that the Hearing Officer erred as to the facts and that the tenant created these conditions.

MSC: To excuse Commissioner Schlichtmann from consideration of this appeal.  
(Stephenson/How: 5-0)

MSC: To deny the appeal. (Rossoff/Stephenson: 4-0)

V. Communications

In addition to communications regarding appeals on the calendar, the Commissioners received the following:

A. The appeal decision for the case at 11 Dolores Street, Appeal No. M001-99A, for review by the Board and signature by President Hammill.

B. An up-dated roster of Rent Board Commissioners and staff.

C. A copy of the Executive Director's letter to the landlord regarding the eviction case at 450 Alabama St, Case No. H001-03X, which was referred to the Commissioners on March 31, 1992.

VI. Consideration of Allegations of Wrongful Evictions

A. 2196 Folsom St. #1	M002-99E
Tenant: Carla Leshne	Landlord: Katherine Kouloulias

On April 10, 1992, the tenant filed a Report of Alleged Wrongful Eviction alleging that when she protested the landlord's demand for a higher rent in order to reoccupy her unit after displacement as a result of the earthquake, she was served with an eviction notice.

After the earthquake, the tenant continued to keep in contact with the landlord and was repeatedly assured that she would be able to reoccupy her unit. She was also informed that the rent would only be increased to \$350.00 - \$375.00. However, on or about December 23, 1991, the landlord informed the tenant that she planned to increase the rent to \$500.00. The tenant refused to pay this increase without prior approval by the Rent Board. On February 7, 1992, the tenant was given an eviction notice for occupancy by the landlord's daughter. .

The Hearing Officer found other improper actions and suggestions of suspect motivation in this case. Therefore, the Hearing Officer determined that the tenant was wrongfully evicted from her apartment in retaliation for the exercise of her rights in direct violation of Section 37.9(d), prohibiting retaliatory eviction.

RECOMMENDATION: It is recommended that a strongly-worded letter be sent to the landlord; that the matter be referred to the District Attorney; and, the case be closely monitored by the Rent Board.

MSC: To find the eviction wrongful.  
(Hammill/Schlichtmann: 5-0)

B. 450 Alabama St. H001-03X

This case was submitted to the Commissioners on March 31, 1992, because the landlord had failed to comply with the reporting requirements of Section 37.9(a)(13).

At that time, the Commissioners voted to send a letter to the landlord prior to referring the case to the District Attorney. The Executive Director conducted an investigation and, as a result, the Rent Board received a report from the landlord on June 30, 1992. By letter of August 28, 1992, the Executive Director informed the landlord's attorney that, unless and until there is clear evidence that all residential use at the property has been terminated, the building will continue to be considered a residential structure covered by the Rent Ordinance.

VII. Appeal Hearing

184 Albion St.

M002-60R (acpt. 7/21/92)

The landlord's petition was granted, resulting in a capital improvement passthrough in the amount of \$13.88 and an operating expense increase of \$27.51. The tenant appealed on the basis of financial hardship, and the Board accepted the appeal on that issue.

The landlord did not appear. The tenant appeared with her attorney. Testimony focused on the tenant's financial situation. After discussion and review of the evidence, the Commissioners passed the following motion:

MSC: In the interest of fairness, to find hardship only regarding the retroactive amounts owed. The imposition of the approved amounts shall therefore be deferred until October 1, 1992. The anniversary date for the annual increase shall, however, remain the same.  
(How/Schlichtmann: 3-2; Rossoff and Hammill dissenting)

VIII. Calendar Items

September 8, 1992 - NO MEETING

September 15, 1992

5 appeal considerations

(2 cont. from 8/18/92)

6:00 Appeal Hearing: 1079 Clayton St. N001-05A (acpt. 8/18/92)

6:30 Appeal Hearing: 793-C & A Valencia N001-06R & N001-12R  
(acpt. 8/25/92)

September 22, 1992

1 appeal consideration

6:00 Appeal Hearing: 1040 Dolores St. #304 N001-09A  
(acpt. 8/25/92)

IX. Adjournment

President Hammill adjourned the meeting at 7:06 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.

September 15, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

TIM CARRICO

MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- A. 543 Buena Vista West  
#1 & 2
- B. 1650 Octavia St.
- C. 2641 Franklin St. #3
- D. 1809 Oak St. #3
- D. 1615 Jones St. #3

- N001-01A  
(cont. from 8/1/92)
- N001-06A  
(cont. from 8/18/92)
- N001-17R
- N001-15A
- N001-14A

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearings
- 6:00 1079 Clayton St.
- 6:30 793-C & A Valencia St.
- XII. Calendar Items
- IX. Adjournment

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- N001-05A  
(acpt. 8/18/92)
- N001-06R & N001-12R  
(acpt. 8/25/92)







FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
- RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, September 15, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:45 p.m.

II. Roll Call

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

Commissioners Present: Carrico; Hammill; Marshall;  
Stephenson.  
Commissioners not Present: McGoldrick; Rossoff;  
Schlichtmann; Villa.  
Staff Present: Grubb; Wolf.

Commissioner How appeared on the record at 6:05 p.m.;  
Commissioner Marshall left the meeting at 6:20 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 1, 1992.  
(Marshall/Carrico: 3-0)

IV. Consideration of Appeals

A. 543 Buena Vista West #1 & #2 N001-01A  
(cont. from 8/18/92)

At their meeting of July 28, 1992, the Rent Board Commissioners voted to deny the landlord's appeal as to all issues except for fair rate of return, which issue was continued to the August 18, 1992 meeting in order to obtain a report from staff. At the meeting of August 18, 1992, staff provided the Commissioners with information concerning use of the "net operating income" standard in fair return cases, as well as information on the "cash flow" and "return on equity" standards. The Commissioners requested additional information from staff, which was provided by the Senior Hearing Officer.

MSC: To deny the landlord's appeal based on the incompleteness of the numbers and evidence submitted at this time, and the fact that "return on value" is not an acceptable standard for determining fair rate of return.  
(Marshall/Hammill: 3-0)

B. 1650 Octavia St.

N001-06A  
(cont. from 8/18/92)

The landlord appealed the decision of the hearing officer which certified capital improvement costs and granted rent reductions to tenants in fifteen units based on substantially decreased housing services. The appeal was "skeletal" and filed for the purpose of preserving the landlord's right to appeal. The landlord alleged five grounds for appeal: (1) erroneous Conclusions of Law; (2) erroneous Findings of Fact; (3) abuse of discretion on the part of the Hearing Officer; (4) failure of the Hearing Officer to comply with the Ordinance or Regulations; and (5) procedural irregularities in the conduct of the hearing.

The appeal was scheduled to be considered on August 18, 1992. The landlord filed a request to postpone consideration of the appeal because some petitions were in the process of being settled, the landlord's attorney would not be available for the appeal consideration and some objections were filed and not served. The Board granted the landlord's request and continued the case for two weeks.

At this time, the landlord has requested a further continuance, on the basis that settlement negotiations are continuing. It was the consensus of the Board to continue this case for one additional week, with the proviso that the landlord must provide written evidence from the tenants that serious settlement efforts related to this case are taking place, and to file a brief regarding the substantive basis for the appeal if he wishes a further continuance.

C. 2641 Franklin St. #3

N001-17R

The landlord's petition for certification of capital improvement costs primarily due to the conversion of a steam heating system was granted. One tenant appeals, alleging that the conversion was unnecessary, that the passthrough is retaliatory, and that paying the retroactive amounts owed would present a financial hardship.

MSC: To continue this case for two weeks in order for the tenant to provide evidence of financial hardship so that the Board can determine whether or not to accept the appeal on those grounds.  
(Marshall/Carrico: 3-0)

D. 1809 Oak Street #3

N001-15A

The landlord's petition for certification of capital improvement costs due to roof work necessitated by leaks was granted, but the bulk of the landlord's expenditures were disallowed because they were compensated by insurance. In addition, rent overcharges  
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were determined for one unit due to the inclusion of the \$8.00 Rent Board fee in base rent, and for another due to an annual increase having been issued prior to the one year anniversary date. The landlord appeals, alleging that the overcharges were an innocent mistake, and that the capital improvement costs were supported by substantial evidence.

MSC: To remand this case to the same hearing officer on the issue of the roof as an uninsured capital improvement only. (Carrico/Stephenson: 4-0)

E. 1615 Jones St. #3

NO01-14A

The tenant's petition regarding decreased housing services was granted in the original decision on this matter. The landlord appealed, alleging that certain of the conditions had been remedied, and the case was remanded to determine the termination dates for the rent reductions. As a result of the remand hearing, an Expedited Hearing Order was issued. The landlord filed an appeal of that Order, alleging that the hearing officer was incorrect as to the facts. The hearing officer asked the Board to reserve the landlord's appeal in order to allow her time to draft a complete decision, and to consider the landlord's appeal in light of a full remand decision. It was the consensus of the Board to follow the hearing officer's recommendation.

#### V. Appeal Hearings

A. 1079 Clayton St.

NO01-05A

The tenant's petition alleging unlawful rent increases was granted and the landlords were found liable to the tenant for rent overpayments totalling \$27,258.32, resulting from null and void rent increases in 1983 and 1984. On appeal, the landlords made the following arguments: (1) there is no authority in the Ordinance to support the granting of an award of back rent pursuant to the appellate court decision in the *Da Vinci* case; (2) the decision in this matter is advisory and therefore not permitted; (3) the tenant's petition is barred by the equitable doctrine of laches because the landlords were prejudiced by the length of time that had elapsed since the time of the alleged wrongful rent increases.

At their meeting of August 18, 1992, the Commissioners accepted the appeal for a Board hearing on the issue of laches and any other equitable defenses, including fundamental fairness to the parties.

The landlords appeared with their attorney, as did the tenant. Testimony focused on the factual circumstances surrounding the imposition of the rent increases. After discussion, the Commissioners passed the following motion:

MSC: In the interest of fairness, to refund rent overpayments for three years prior to the filing of the petition, including any amounts accruing between the filing of the petition and the issuance of the decision; and to readjust the base rent back to the last lawful amount prior to imposition of the illegal increases, inclusive of any otherwise allowable increases imposed since that time.  
(Stephenson/Hamill: 4-0)

B. 793-C & A Valencia St. N001-06R & N001-12R

The landlord's petition for rent increases for two units resulted in the certification of a \$59.60 monthly capital improvement passthrough, the granting of a 7% operating expense increase, and the denial of the landlord's comparables claim. After appeal by the landlord, the case was remanded to determine whether rent increase notices issued after the filing of the petition necessitated a correction to the decision. The remand decision determined the correct base rents and increases for each unit, and established that the effective date for the increases was July 1, 1991, the date of the landlord's notice. The tenants in two units appealed, claiming that having to pay the retroactive amounts owed presented them with a financial hardship. The Board accepted both appeals on those grounds.

The tenants in unit #A appeared and represented themselves. The tenant in unit #C was represented by his nephew. Testimony focused on the tenants' economic circumstances. After discussion and review of the evidence, the Commissioners passed the following motion:

MSC: In the interests of fairness and justice, as to the tenants in unit #A: the rent is \$472.88 as of September 1, 1992, which is the effective date for the imposition of the capital improvement passthrough; the retroactive amount owing for allowable annual increases shall be reimbursed in two monthly payments of \$96.25, commencing October 1, 1992; and the retroactive amount owing for operating expenses shall be reimbursed at the rate of \$50.00 per month for seven months commencing December 1, 1992, and terminating with a final payment of \$43.12 on July 1, 1993.

As to the tenant in unit #C: the rent is \$472.88 as of September 1, 1992, which is the effective date for the imposition of the operating expense passthrough. Arrearages owing for capital improvements and operating expenses are forgiven. Amounts owing retroactively for allowable annual increases shall

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be paid off over a four-month period commencing September 1, 1992; the capital improvement passthrough shall commence January 1, 1993. The tenant's rent shall remain \$472.88 until the next annual or other allowable increase is imposed, or the tenant's financial circumstances improve. (Carrico/Hamill: 4-0)

VI. Communications

The Commissioners received the following communications:

- A. Graphs showing the agency's workload since 1979.
- B. A Confidential Memo from Deputy City Attorney Pennypacker regarding the issue of laches.
- C. The monthly statistics for August, 1992.

VII. Director's Report

Executive Director Grubb informed the Commissioners that the Board of Supervisors' Economic and Social Policy Committee met this afternoon regarding proposals for passing through property tax increases relating to the passage of bond measures, and the establishment of an 80% of CPI floor for annual rent increases. Both matters were continued for one week.

Additionally, loss of revenue from the State will force the City to effectuate budget cuts resulting in the loss of an anticipated 600 - 900 positions. This will not affect the Rent Board, as it is not a General Fund Department.

VIII. Calendar Items

September 22, 1992

- 4 appeal considerations (1 cont. from 9/15)
- 6:00 Appeal Hearing: 1040 Dolores St. #304 NO01-09A  
(acpt. 8/25/92)

September 29, 1992

- 4 appeal considerations

IX. Adjournment

President Hamill adjourned the meeting at 8:40 p.m.







VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
September 22, 1992

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25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- A. 1650 Octavia St. N001-06A  
(cont. from 9/15/92)
- B. 606 Post St. #606 N001-18R
- C. 4796 Mission St. #108 N001-19R
- D. 189 Landers St. N001-14A

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
- 6:00 1040 Dolores St. #304 N001-09A  
(acpt. 8/25/92)
- XII. Calendar Items
- IX. Adjournment

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FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, September 22, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

Vice-President Schlichtmann called the meeting to order  
at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	How; Marshall; McGoldrick; Rossoff; Schlichtmann.
Commissioners not Present:	Carrico; Hammill; Stephenson; Villa.
Staff Present:	Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of September 15, 1992.  
(Rossoff/How: 5-0)

IV. Remarks from the Public

Al Goodwin expressed interest in a confidential memorandum from  
the Deputy City Attorney regarding the issue of laches; the  
Executive Director will ask the Deputy City Attorney if the  
memo's subject matter can be made available to the public.

V. Consideration of Appeals

A. 1650 Octavia St. N001-06A (cont. from  
9/15/92)

The landlord appealed the decision of the hearing officer which  
certified capital improvement costs and granted rent reductions  
to tenants in fifteen units based on substantially decreased  
housing services. The appeal was "skeletal" and filed for the  
purpose of preserving the landlord's right to appeal. The  
landlord alleged five grounds for appeal: (1) erroneous  
Conclusions of Law; (2) erroneous Findings of Fact; (3) abuse  
of discretion on the part of the hearing officer; (4) failure  
of the hearing officer to comply with the Ordinance or  
Regulations; and (5) procedural irregularities in the conduct  
of the hearing.

The appeal was scheduled to be considered on August 18, 1992. The landlord filed a request to postpone consideration of the appeal because some petitions were in the process of being settled, the landlord's attorney would not be available for the appeal consideration and some objections were filed and not served. The Board granted the landlord's request and continued the case for two weeks.

At the meeting of September 15, 1992, the landlord requested a further continuance, on the basis that settlement negotiations were continuing. The Board continued the case for one additional week, with the proviso that the landlord provide written evidence from the tenants that serious settlement efforts related to the case are taking place, and that he file a brief regarding the substantive basis for the appeal if he wished a further continuance.

The landlord submitted a brief on the issues, mostly alleging factual errors on the part of the hearing officer, and a letter attesting to ongoing settlement efforts. Two tenants submitted letters stating that the landlord was negotiating only with tenants who are moving out or, in conjunction with security deposit issues, and objected to further continuance.

MSC: To deny the appeal. (Marshall/McGoldrick: 5-0)

B. 606 Post St. #606 N001-18R

The tenant's petition alleging the landlord's failure to repair was denied by the hearing officer, due to lack of notice to the landlord regarding the conditions complained of, and absent a notice of code violation from BBI. On appeal, the tenant alleges that the building manager failed to solve the complaints in spite of several attempts, and that the manager has no personal knowledge of the conditions, as he does not reside on the premises.

MSC: To deny the appeal. (Rossoff/How: 5-0)

C. 4796 Mission St. #108 N001-19R

This case originated from a landlord's petition based on increased operating expenses and capital improvement costs which was granted, in part. Tenant petitions asking for rent reductions due to conversion from steam to electric heat were also granted. Upon appeal from the landlord and tenants, the case was remanded on the issues of the amount of the rent reductions, and the effective dates for certain repairs. The tenants in one unit appeal the remand decision, stating that the approved rent increases and retroactive amounts owing present a financial hardship.

MSC: To accept the appeal and schedule a Board hearing on the issue of financial hardship.  
(Marshall/McGoldrick: 5-0)

D. 189 Landers St. N001-14A

The tenants' petition alleging decreased housing services resulted in a conciliation agreement between the parties after a 3-1/2 hour hearing. The landlords' children, who appear to own an interest in the subject property, ask that the agreement be set aside because: they were not notified of the hearing; their parents speak Chinese and were allegedly confused; the hearing officer did not go through all of the complaints listed in the petition; and the tenants are not willing to sign a new lease with the owners.

MSC: To deny the appeal because the requested relief is beyond the Board's authority.  
(MSC: Rossoff/Schlichtmann: 5-0)

#### VI. Appeal Hearing

1040 Dolores St. #304 N001-09A

Prior to commencement of the hearing, the parties informed the Commissioners that a settlement had been reached, and the landlord would withdraw his appeal.

#### VII. Director's Report

The Executive Director informed the Board as follows:

A. The City prevailed in the Levy case, and the landlord was not awarded attorney's fees.

B. Director Grubb testified before the Planning Commission on the issue of eviction in the case of demolition.

C. The Board of Supervisors' Economic and Social Policy Committee tabled proposals for passing through property tax increases related to the passage of bond measures, and the establishment of an 80% of CPI floor for annual rent increases.

D. Regarding the complaint the Board filed regarding attorney ethics in the case at 118-A 27th Street, the State Bar found inappropriate behavior, but no conflict of interest rising to the level warranting a charge.

VIII. Calendar Items

September 29, 1992

4 appeal considerations (1 cont. from 9/15/92)

October 6, 1992

1 appeal consideration

6:00 Appeal Hearing: 4796 Mission St. #108 N001-19R (acpt.  
9/22/92)

IX. Adjournment

Vice-President Schlichtmann adjourned the meeting at 6:25 p.m.

City and County of San Francisco

Residential Rent Stabilization  
and Arbitration Board



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
September 29, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 2641 Franklin St. #3 N001-17R  
(cont. from 9/15/92)
  - B. 655 Stockton St. #107 N001-20R
  - C. 505 26th Ave. #3 N001-21R
  - D. 122 Dolores St. N001-15A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, September 29, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Hammill; Marshall; Rossoff; Schlichtmann.
Commissioners not Present:	Carrico; McGoldrick; Stephenson; Villa.
Staff Present:	Wolf.

Commissioner How arrived on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 22, 1992.  
(Rossoff/Schlichtmann: 4-0)

IV. Remarks from the Public

A member of the public inquired regarding the number of Commissioners present at the meeting, and was informed that there was a quorum.

V. Consideration of Appeals

A. 2641 Franklin St. #3 N001-17R (cont. from  
9/15/92)

The landlord's petition for certification of capital improvement costs primarily due to the conversion of a steam heating system was granted. One tenant appealed, alleging that the conversion was unnecessary, that the passthrough is retaliatory, and that paying the retroactive amounts owed would present a financial hardship. The Commissioners continued this case for two weeks in order for the tenant to provide evidence of hardship so that the Board could determine whether or not to accept the appeal on those grounds.



MSC: To deny the appeal. (Schlichtmann/Rossoff: 4-0)

B. 655 Stockton St. #107 NO01-20R

The tenant's petition regarding decreased housing services was denied by the hearing officer, due to the tenant's failure to meet her burden of proof. The tenant complained of excessive electricity in the unit which affected the normal operation of household appliances, and unauthorized entries into her unit. On appeal, the tenant claims that the hearing officer was biased against her.

MSC: To deny the appeal. (Schlichtmann/Rossoff: 4-0)

C. 505 26th Ave. #3 NO01-21R

This tenant's petition alleging unlawful increases in rent was granted by the hearing officer, and the landlord was found liable for \$3,887.54 in overpayments. The tenant and landlord appealed, and the case was remanded on the issues of the rent history and ordering of rent refunds. The remand decision resulted in the ordering of \$5,897.07 in rent refunds. The tenant again appeals, alleging that the decision needs further technical corrections and that the hearing officer erred in finding that a charge for garage use had not been included in the original rent.

MSC: To deny the appeal; the hearing officer will issue the appropriate technical corrections.  
(Schlichtmann/Marshall: 4-0)

D. 122 Dolores St. NO01-15A

The tenant's Summary Petition alleging an illegal rent increase was scheduled for hearing because of conflicting allegations between the master tenant (landlord) and tenant concerning the Rent Board's jurisdiction over the property. The hearing officer found the increase to be null and void, because the owner-occupier's 50% interest in this 3-unit building is held in a revocable trust. On appeal, the master tenant/landlord provides evidence showing that the trust is an estate planning device only, and that the owner-occupant has the rights and powers commensurate with ownership, including being able to sell, convey and encumber the property.

MSC: To accept the appeal and remand the case to the same hearing officer on the issues of the trust and jurisdiction. (Marshall/Rossoff: 4-0)



VI. Communications

In addition to communications regarding appeals on the calendar, the Commissioners received the appeal decision for the case at 178 Albion Street, Appeal No. M002-60R, which was approved by the Board and signed by President Hammill.

VII. Remarks from the Public (cont.)

Two members of the public, involved in cases on appeal on tonight's calendar, made several procedural inquiries.

VIII. Calendar Items

October 6, 1992

1 appeal consideration

6:00 Appeal Hearing: 4796 Mission St. #108 N001-19R  
(acpt. 9/22/92)

October 13, 1992 - NO MEETING

October 20, 1992

4 appeal considerations

IX. Adjournment

President Hammill adjourned the meeting at 6:00 p.m.





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 6, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 1440 Taraval St. NO01-16A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
  - 6:00 4796 Mission St. #108 NO01-19R  
(acpt. 9/22/92)
- XII. Calendar Items
- IX. Adjournment

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PUBLIC LIBRARY

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, October 6, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Carrico; Hammill; How; Marshall; Rosoff; Schlichtmann.
Commissioners not Present:	McGoldrick; Stephenson; Villa.
Staff Present:	Ruiz; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of September 29, 1992.  
(How/Marshall: 5-0)

IV. Consideration of Appeals

1440 Taraval Street #3                      N001-16A

The tenant's petition alleging unlawful increases in rent was granted by the hearing officer and the landlords were found liable for \$14,076.47 in overpayments. On appeal, the landlords make the following arguments: (1) the rent increase is not unlawful because the additional occupant created a new tenancy; the Statute of Limitations under Code of Civil Procedure Section 338 should apply; (2) the amount owing would subject the landlords to financial hardship; and (3) there are mathematical errors in the calculation of the period of rent overpayments. A notice of technical correction was issued on September 28, 1992.

MSC: In the interest of fairness and justice, to accept this appeal and schedule a Board hearing on the issues of hardship and laches. (Hammill/How: 5-0)

V. Director's Report

The Deputy Director informed the Board as follows:

A. Sandra Gartzman, Senior Hearing Officer, had a healthy baby boy.

B. The proposed language establishing a 3-year Statute of Limitations on rent refunds due to null and void rent increases has been finalized. A copy will be sent to all the Commissioners.

VI. Appeal Hearing

4796 Mission Street #108                      N001-19R  
(acpt 9/22/92)

The Commissioners accepted the appeal for a Board hearing on the issue of financial hardship. The tenant-appellant failed to appear at the properly noticed hearing. Accordingly, the case was dismissed.

VII. Calendar Items

October 13, 1992 - NO MEETING

October 20, 1992  
5 appeal considerations

October 27, 1992  
4 appeal considerations

6:00 Appeal Hearing: 1440 Taraval St. N001-16A  
(acpt. 10/6/92)

VIII. Adjournment

President Hammill adjourned the meeting at 6:10 p.m.



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 20, 1992  
\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
  - A. 1142 Mariposa St. #1 N001-22R
  - B. 1100 Gough St. #16-D N001-17A
  - C. 1123 Green Street N001-23R
  - D. 3448 - 19th Street N001-18A
  - E. 1830 - 18th Avenue N001-19A
- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Calendar Items
- XII. Adjournment







VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, October 20, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Hammill; How; Marshall;  
Schlichtmann.  
Commissioners not Present: McGoldrick; Rossoff;  
Stephenson; Villa.  
Staff Present: Grubb; Wolf.

Commissioner Carrico appeared on the record at 5:38 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 6, 1992 with  
the following correction: the appeal hearing  
regarding the case at 4796 Mission Street #108  
was continued, and not dismissed.  
(Marshall/How: 4-0).

IV. Consideration of Appeals

A. 1142 Mariposa St. #1 N001-22R

The tenant's appeal was filed three days late. In response to  
staff's inquiry as to the reason for the late filing, the  
tenant responded that the Appeals Coordinator must have  
mis-counted the days, because she filed timely on September  
21st. However, the tenant filed her appeal on September 24th.

MSC: To find good cause for the late filing of the  
appeal. (Marshall/Schlichtmann: 5-0)

The tenant's petition alleging decreased housing services, the  
landlord's failure to make requested repairs and an unlawful  
increase in rent was denied, for the most part, by the hearing  
officer. The hearing officer found that the landlord had  
reinstated most of the services for which rent reductions

were granted in a prior case. A \$10.00 reduction for inoperative closet doors was, however, found to still be warranted. On appeal, the tenant maintains that several serious problems are still outstanding, and that a mathematical mistake in the prior decision that had not been appealed should be corrected.

MSC: To deny the appeal. (Hamill/Carrico: 5-0)

B. 1100 Gough St. #16-D N001-17A

The tenants were granted rent reductions to correspond with the lack of reliable elevator service in this multi-story building. Upon the landlord's appeal, the case was remanded on the amount of the rent reduction, considering that the tenants voluntarily moved from the 4th to the 16th floor in the same building. In the remand decision, the hearing officer found that the malfunctions had worsened during the period at issue, but that the tenants' prior knowledge of the condition warranted no additional reductions due to health or mobility problems. The landlord appeals, asserting that service had actually improved during the subject period, and that the tenants' prior knowledge should disallow any additional amount for the fact that they lived on the 16th floor.

MSC: To deny the appeal.  
(Marshall/Schlichtmann: 5-0)

C. 1123 Green St. N001-23R

The tenant's original petition alleging a substantial decrease in housing services and an unlawful increase in rent was denied. Upon the tenant's appeal, the case was remanded on the issue of comparables, considering the amenities furnished with this unit and the special circumstances of this case.

The five bedrooms in this flat are rented out separately. The tenant originally moved into the smallest of the bedrooms, but later moved into the largest and most desirable bedroom. Upon termination of the tenant's provision of certain managerial services, the landlord effectuated a rent increase to a market rent of \$850.00 for the larger bedroom. After filing of the tenant's petition, the landlord attempted to evict the tenant for breach of his lease by having an additional occupant in the unit. On remand, the hearing officer upheld the validity of the landlord's rent increase, but found that the eviction attempt was wrongful, and in retaliation for the tenant's exercise of his rights under the law. The tenant appeals the remand decision, asserting that the hearing officer failed to adequately consider his comparables evidence.

MSC: To deny the appeal. (Carrico/How: 5-0)

D. 3448 - 19th St. N001-18A

Three tenants filed petitions alleging that the master tenant is receiving more money upon the initial occupancy of the subtenants than the rent the master tenant is currently paying the owner, in violation of Ordinance Section 37.3(c). The hearing officer found the master tenant liable for \$3,700.00 in overpayments. The master tenant appeals, asserting that he provides services and amenities that justify the excess rent being charged, and that Section 37.3(c) does not apply to him because he does not reside in the subject unit.

MSC: To accept the appeal and schedule the case for a Board hearing. (Carrico/Schlichtmann: 5-0)

1830 - 18th Ave. N001-19A

The landlord's appeal was filed 22 days late because the copy of the hearing officer's decision that was mailed to him was missing a page, and an extension for filing the appeal had therefore been granted.

MSC: To find good cause for the late filing of the appeal. (Marshall/How: 5-0)

The tenant's petition alleging decreased housing services and the landlord's failure to repair was granted due to serious habitability problems in the unit. The hearing officer ordered refunds in the amount of \$1240.00, and deferral of the annual rent increase. On appeal, the landlord alleges discrimination and bias on the part of the hearing officer, and asserts that the damage was caused by the tenant.

As he had not received a copy of the hearing officer's decision, Commissioner Carrico excused himself from consideration of this appeal.

MSC: To deny the appeal.  
(Marshall/Schlichtmann: 4-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memorandum regarding the new Performance Appraisal System by which the Board will evaluate Executive Director Grubb. Commissioner Schlichtmann graciously volunteered to attend an orientation session which will be presented by the Civil Service Commission and Director of Training.

B. The monthly workload statistics for September.

C. A revised Rent Board staff roster.

VI. Old Business

4796 Mission Street #108 (N001-19R) (cont. from 10/6/92)

This case was continued from the October 6th meeting, as the Spanish-speaking tenant-appellant failed to appear at the properly noticed appeal hearing. The Deputy Director reported that the tenant's representative from St. Peter's Housing Committee had erred in thinking that the matter was scheduled for consideration instead of hearing, and therefore had told the tenant not to appear. The Commissioners therefore agreed that the case should be rescheduled.

VII. Remarks from the Public

The landlord in the case at 1830 - 18th Avenue inquired regarding the finality of the hearing officer's and Board's decisions on his case.

VIII. Calendar Items

October 27, 1992

6 appeal considerations

6:00 Appeal Hearing: 1440 Taraval St. N001-16A  
(acpt. 10/6/92)

November 3, 1992 - NO MEETING

November 10, 1992

7 appeal considerations

Eviction Reports

6:00 Appeal Hearing: 4796 Mission St. #108 (N001-19R)  
(cont. from 10/6/92)

IX. Adjournment

President Hammill adjourned the meeting at 6:20 p.m.

# City and County of San Francisco

## Residential Rent Stabilization and Arbitration Board



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
October 27, 1992

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

### AGENDA

\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A.	16 Linda St.	N001-47R
B.	281 Frederick St.	N001-20A
C.	3860 24th St. #5	N001-48R
D.	Parkmerced	N001-24R thru N001-46R
E.	165 Cypress St.	N001-21A
F.	371 Haight St. #2	N001-49R

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IX. Remarks from the Public (cont.)
- IV. New Business
- X. Appeal Hearing
- 6:00 1440 Taraval St.
- XI. Calendar Items
- XII. Adjournment

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N001-16A  
(acpt. 10/6/92)

0205M





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, October 27, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:40 p.m.

TIM CARRICO

MAMIE HOW

POLLY MARSHALL

JAKE MCGOLDRICK

MICHAEL ROSOFF

DENICE STEPHENSON

WILLIAM VILLA

II. Roll Call

Commissioners Present:	Carrico; Hammill; How;
	Marshall; Rossoff.
Commissioners not Present:	McGoldrick; Schlichtmann;
	Stephenson; Villa.
Staff Present:	Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of October 20, 1992.  
(Marshall/How: 4-0)

IV. Remarks from the Public

The tenant's representative in the case at 371 Haight and several tenants involved in the case at Parkmerced asserted that landlords ought not to be able to pass through the costs of repair and maintenance, and objected to the allowance of 10% interest on capital improvement costs when interest rates are currently significantly lower.

V. Consideration of Appeals

A. 16 Linda St. N001-47R

The landlord's petition for rent increases based on certification of capital improvement costs and comparable rents was granted by the hearing officer. One factor used in arriving at the amount of the comparables increase was the fact that the tenant's unit came with a garage. The tenant appeals the comparables increase and alleges that the garage is not legal.

After discussion, it was the consensus of the Board to continue this case for two weeks in order for staff to contact the tenant and ascertain whether he was appealing the increase on the basis of financial hardship.



B. 281 Frederick St.

N001-20A

The hearing officer granted the tenant's petition alleging a rent increase exceeding the limitations under the Rehabilitation Assistance Program (RAP) Ordinance and Rules. The hearing officer found that the proposed increase from \$950.00 to \$1,200.00 per month was unjustified, as the landlord's calculations included her actual costs instead of the increase in her monthly costs. On appeal, the landlord asserts that the hearing officer misinterpreted the relevant law, and that she was actually entitled to raise the rent to \$1,680.25.

MSC: To excuse Commissioner Rossoff from consideration of this appeal. (Hamill/Marshall: 4-0)

MSC: To remand the case to the same hearing officer on the issues raised in the appeal and to allow the landlord to provide evidence supporting her calculations regarding property taxes, insurance and maintenance. (Marshall/How: 4-0)

C. 3860 - 24th St. #5

N001-48R

The tenant's petition alleging decreased housing services and the landlord's failure to make requested repairs was granted by the hearing officer. The landlord was found liable in the amount of \$20 for lack of heat for a 3-week period and \$200 for an unsafe back stairway. The annual rent increase was also deferred until outstanding code violations were corrected. On appeal, the tenant asserts that amounts discussed by the hearing officer during settlement negotiations were significantly larger, and that the small amount of the financial penalty fails to provide an adequate incentive for the landlord to make repairs.

MSC: To deny the appeal. (Carrico/How: 4-0)

D. Parkmerced

N001-24R thru N001-46R

The landlord's petition for certification of the costs of installing new windows to 39 units was granted, in part, by the hearing officer. On appeal, the tenants in 23 units object to the passthroughs, claiming that: as Parkmerced was legally required to replace the existing windows, the tenants should not have to bear the costs; the interest rate is usurious; and the work should be considered "maintenance", and not capital improvement.

After discussion, it was the consensus of the Board to continue this case for two weeks in order for the Executive Director to contact the landlord's representative regarding the possibility of settlement.



E. 165 Cypress St.

N001-21A

The landlord's petition for certification of capital improvement costs was granted. However, rent overpayments in the amount of \$125.90 were determined for one unit due to a rent increase having been issued prior to one year. On appeal, the landlord submits evidence showing that his petition was in error, and that the increase was issued on the anniversary date.

MSC: To deny the appeal; a technical correction to the decision will be issued by the hearing officer.  
(Marshall/How: 4-0)

F. 371 Haight St. #2

N001-49R

The tenants' petition alleging several decreased housing services was denied, except for a \$15 per month reduction granted for a 3-month period due to the lack of a secure light fixture in one room in the unit. The tenants' appeal refers to the fact that they were without heat for two years, rather than 3 months. However, no reduction for lack of heat had been granted by the hearing officer, as the tenants had informed the manager that they were exercising their repair-and-deduct remedy under State law regarding replacement of the heater.

MSC: To deny the appeal. (Carrico/How: 3-1;  
Marshall dissenting)

#### VI. Appeal Hearing

1440 Taraval Street

N001-16A

The tenant's petition alleging unlawful increases in rent was granted by the hearing officer and the landlords were found liable for \$14,076.47 in overpayments. The landlords appealed, alleging that: the increase was not unlawful because the presence of an additional occupant created a new tenancy; the Statute of Limitations under Code of Civil Procedure Section 338 should apply; and the amount owing would subject the landlords to financial hardship. The Commissioners accepted the landlords' appeal and scheduled a hearing before the Board.

The tenant appeared and represented himself; the landlords appeared, accompanied by their attorney. Prior to commencement of the hearing, the possibility of settlement was explored by the Commissioners. The parties came to an agreement, as follows: the \$100 monthly increase for the additional occupant shall be refunded for the 34-month period during which only the tenant resided in the unit; the base rent shall be readjusted back to the last lawful amount prior to imposition of the illegal increase, inclusive of any otherwise allowable increases imposed since that time; and the tenant shall pay only 50% of his monthly rent until

the amount owing has been fully recovered.

MSC: To accept the agreement of the parties as the  
Board's decision in this matter.  
(Carrico/Marshall: 4-0)

VII. Communications

The Commissioners received the following communications:

A. The appeal decision regarding the case at 1079 Clayton Street (N001-05A), which was approved by the Board and signed by President Hammill.

B. The original hearing officer's and Board's decisions regarding the case at 3448 19th Street (N001-18A), scheduled for Board hearing on November 17, 1992.

VIII. Director's Report

Executive Director Grubb reported as follows:

A. The hearing officers received a 4-hour training in mediation skills on October 23rd, which was well-received.

B. The office will be installing a new telephone messaging system, which includes an auto attendant feature, which will make it easier for the public to more quickly access the specific information that they need and thereby reduce the need for direct communication with staff.

IX. Old Business

President Hammill informed the Board that Vice-President Schlichtmann attended the Performance Appraisal System training put on by Civil Service.

X. Calendar Items

November 3, 1992 - NO MEETING

November 10, 1992

9 appeal considerations (including 2 cont. from 10/27/92)  
5 Eviction Reports

6:00 Appeal Hearing: 4796 Mission St. #108 (N001-19R)  
(cont. from 10/6/92)

November 17, 1992

4 appeal considerations

6:00 Appeal Hearing: 3448 - 19th St. (N001-18A)  
(acpt. 10/20/92)

XI. Adjournment

President Hammill adjourned the meeting at 7:40 p.m.



NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
November 10, 1992

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

DOCUMENTS DEPT.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

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SAN FRANCISCO  
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals
  - A. 16 Linda St. N001-47R  
(cont. from 10/27/92)
  - B. Parkmerced N001-24R thru N001-46R  
(cont. from 10/27/92)
  - C. 2774-2780 - 22nd St. N001-23A
  - D. 730 Eddy St. #105 N001-22A
  - E. 105 Lake St. #10 N001-50R
  - F. 1279 Palou Ave. N001-51R
  - G. 1560 McAllister St. #8 N001-25A
  - H. 907 Valencia St. N001-24A
  - I. 4084 - 17th St. #7 N001-52R
- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
  - A. 1123 Green St. M003-36E
  - B. 3736 - 20th St. M002-69E
  - C. 979 Guerrero St. M003-55E
  - D. 230 Elmira St. M003-43E
  - E. 250 Taylor St. M001-23E
- VIII. Old Business
- IX. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
  - 6:00 4796 Mission St. #108 N001-19R  
(cont. from 10/6/92)
- XII. Calendar Items
- IX. Adjournment

0208M





VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, November 10, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Hammill; Marshall; Rossoff; Schlichtmann.
Commissioners not Present:	McGoldrick; Stephenson; Villa.
Staff Present:	Grubb; Ruiz.

Commissioner How appeared on the record at 5:37 p.m. and  
Commissioner Carrico at 5:41 p.m. Commissioner Carrico went  
off the record at 6:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 27, 1992.  
(Rossoff/Marshall: 4-0)

IV. Consideration of Appeals

A. 16 Linda Street #6 N001-47R  
(cont. from 10/27/92)

The landlord's petition for rent increases based on  
certification of capital improvement costs and comparable rents  
was granted by the hearing officer. One factor used in  
arriving at the amount of the comparables increase was the fact  
that the tenant's unit came with a garage. The tenant appealed  
the comparables increase and alleged that the garage is not  
legal.

This case was continued for two weeks in order for staff to  
contact the tenant to ascertain whether he was appealing the  
increase on the basis of financial hardship. Staff has  
confirmed that he is. However, by message dated November 3,  
1992, the landlord has informed the Board that the tenant has  
vacated the unit. A telephone call to the tenant at his new  
residence confirmed that he has vacated the premises. Staff

requested that he submit a withdrawal in writing. It was the consensus of the Commissioners to continue this case until the tenant submits his withdrawal of appeal in writing.

B. Parkmerced      N001-24R thru N001-46R and N001-57R  
(cont. from 10/27/92)

One tenant filed her appeal late and wishes to have it consolidated with the above cases. The tenant filed her appeal on November 3, 1992, and submitted a letter stating a reason for the late filing.

MSC:      To find good cause for the late filing of the appeal subject to the submission by the tenant of a proper declaration stating where she was.  
(Schlichtmann/How: 5-0)

The landlord's petition for certification of the costs of installing new windows to 39 units was granted, in part, by the hearing officer. On appeal, the tenants in 23 units object to the passthroughs, claiming that: as Parkmerced was legally required to replace the existing windows, the tenants should not have to bear the costs; the interest rate is usurious; and the work should be considered "maintenance", and not capital improvement.

After discussion, it was the consensus of the Board to continue this case for two weeks in order for the Executive Director to contact the landlord's representative regarding the possibility of settlement.

The Executive Director informed the Commissioners that he had contacted the attorney representative for Parkmerced who stated that Parkmerced management would be willing to hold a meeting to discuss the possibility of minimizing the impact of the capital improvement passthroughs.

The meeting is scheduled for November 19, 1992, with Rent Board staff, the attorneys for Parkmerced, and the tenant representatives.

This case was therefore continued until December 1, 1992.

C. 2774-2780 - 22nd Street      N001-23A

The landlord's petition for rent increases based on certification of capital improvement costs was granted, in part, by the Hearing Officer. Although the landlord gives no narrative to inform the Board of the basis for the appeal, the documentation suggests that he is appealing the amount of

refund of the estimator's fee (\$455.00 instead of \$230.00) and an additional cost of \$40.00 for remodeling unit #2780, which results in a monthly increase of \$0.53 for that unit. The landlord did not provide the correct figures at the hearing. Technical corrections are being made by the Hearing Officer.

MSC: To accept the appeal for technical correction  
of the estimator fee. (Carrico/How: 5-0)

D. 730 Eddy Street #407 N001-22A

The tenant's petition alleging decreased housing services due to loss of closet and floor space as a result of reconfiguration of the unit was granted by the Hearing Officer. In addition, the Hearing Officer found the rent increase for 1992 to be null and void. On appeal, the landlord contends that he did not receive notice of the hearing and submits a Declaration of Non-Receipt of Notice.

The Commissioners decided to continue this appeal for three weeks in order for staff to ascertain whether the landlord or anyone on his staff received notice at the 1545 Pacific Avenue address and whether this is a proper mailing address.

E. 105 Lake St. #10 N001-50R

The tenant's petition alleging decreased housing services was denied by the Hearing Officer because of the doctrine of res judicata. In 1985, the landlord was granted a capital improvement passthrough for costs associated with a new roof and conversion of steam heat to electrical heat. The tenant was granted a \$22.00 per month reduction in base rent for the heat conversion pursuant to the stipulation of the parties. That decision was not appealed by either party. The tenant currently appeals on the basis of hardship; that she was not informed that the reduction of \$22.00 granted in 1985 could not be modified in the future; and, that the figures listed in paragraph 6 of the current decision for calculating electric costs are incorrect.

MSC: To excuse Commissioner Carrico from  
consideration of this appeal.  
(Marshall/How: 5-0)

The Commissioners directed staff to consult the City Attorney as to whether, in the interests of fairness and justice, the Board can entertain hardship appeals when there is no increase presently pending. This appeal is therefore continued until the City Attorney is consulted.



F. 1279 Palou Avenue

N001-51R

The tenant's petition alleging decreased housing services was dismissed with prejudice because she failed to appear or to file a written excuse for non-appearance. The tenant appeals on the basis that she had a car accident on the way to the hearing.

The Commissioners decided to continue this case for three weeks in order for the tenant to submit a proper declaration under oath.

G. 1560 McAllister St. #8

N001-25A

The tenant's petition alleging decreased housing services; the landlord's failure to make requested repairs; incorrect calculation of utility passthrough; and, unlawful increases in rent, was granted in part. On appeal, the landlord contends that: the Hearing Officer considered matters that were not introduced at the hearing; that \$120.00 for the kitchen stove is unfair; and, that he has used the correct base year for calculating the utility passthrough.

MSC: To remand to the same Hearing Officer on the issue of the stove; specifically to find out why the replacement stove is inadequate.  
(Carrico/How: 5-0)

H. 907 Valencia St.

N001-24A

The tenant's petition alleging several decreased housing services was granted. On appeal, the landlord contends that the amount of rent reductions should be adjusted because the tenants vacated the premises at the end of June 1992.

MSC: To remand to same Hearing Officer for technical corrections. The amount owed by the landlord is \$2,635.00 through June 1992.  
(How/Carrico: 5-0)

I. 4084 - 17th Street

N001-52R

The tenant's petition alleging decreased housing services and the landlord's failure to make repairs was granted, in part, by the Hearing Officer. The landlord was found liable for \$20.00 per month for 39 months for failure to repair or replace the tenant's carpeting. The Hearing Officer also found that the landlord had 26% in banked increases. On appeal, the tenant asserts that the landlord was cited for the condition of the drapes as well and that the figures used in calculating the banked increases are incorrect.



MSC: To remand to the same Hearing Officer to determine the best rent history available for calculating banked increases.  
(How/Carrico: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memorandum from the Executive Director to the Commissioners regarding the recently passed Proposition H and the Statute of Limitations.

B. The Appeal decision for the case at 793 Valencia Street, Appeal Nos. N001-12R and N001-06R, for review by the Board and signature by President Hammill.

C. A Memorandum from Alicia Wicks regarding 1079 Clayton Street, Appeal No. N001-05A, with attachments including a letter from the landlord's attorney; a letter from the tenant's attorney; and, the title page and overpayment calculations from the Board's decision.

D. A letter dated October 28, 1992, from attorney Michael C. Hall regarding amendments to the Rent Ordinance which he is proposing.

VI. Old Business

The Executive Director discussed the proposed language establishing a 3-year Statute of Limitations on rent refunds due to null and void rent increases and some concerns expressed by the Deputy City Attorney. The Commissioners directed staff to put this item on the agenda for the meeting of November 17, 1992. The Executive Director informed the Commissioners that the Deputy City Attorney would be present at that meeting.

VII. Consideration of Allegations of Wrongful Evictions

A. 1123 Green Street M003-36E

After the filing of a tenant's petition, the landlord attempted to evict the tenant for breach of his lease by having an additional tenant. The owner of the building and the manager of the flat were aware of the occupancy of the additional person. On or about September 22, 1991, the manager of the flat asked the "new" tenant to sign documents in order to comply with Sections 6.14(a) and (d) of the Rules and Regulations. Thereafter, from May 21, 1992 to June 7, 1992,

the tenants were served several notices to vacate because the roommate was not an approved sub-tenant and therefore had no rights under the Rent Ordinance.

The manager, acting on behalf of the owner, and resided in the same flat and had actual and legal knowledge of an additional person in the tenant's room since August 1, 1991. In addition, the statements signed by the additional person waived any rights the landlord may have had to enforce a breach of contract.

RECOMMENDATION: To write a cautionary letter and closely monitor.

B. 3796 - 20th Street M002-69E

This case involves a Report of Alleged Wrongful Eviction due to owner-occupancy and a tenant petition alleging a substantial decrease in housing services without a corresponding reduction in rent. On March 4, 1992, the landlord's son served the tenants with a Thirty-Day Notice of Termination of Tenancy for his occupancy.

Prior to this, the tenants had contacted two governmental agencies because they became aware that some of the electrical wiring in the building was connected to their meter and the electricity bills were high. The landlord was cited by PG&E and the Bureau of Building Inspection. The tenants allege that they were being evicted in retaliation for complaining about the wiring situation in the building.

There is evidence of improper actions by the landlord for the following reasons: (1) while it is credible that the son may have been under the impression that he is an owner, there is evidence that the landlord's son does not hold a recorded fee interest in the property as required in the Rent Ordinance; (2) the son credibly testified that for the past nine (9) years he has only spent short periods of time in San Francisco because he is away on pro-surfing tours at home and aboard; and (3) an ad was placed in the newspaper advertising the tenants' unit for rent.

RECOMMENDATION: To send a strongly worded cautionary letter.

C. 979 Guerrero Street L003-55E

The tenant has resided in her unit since September 1979. In Case No. M004-73T, decision issued on March 25, 1992, the Hearing Officer found the landlord liable for the sum of

\$11,151.92 for rent overpayments from April 1982 through March 1992. That decision was not appealed by the landlord. In Case No. L001-71T, decision issued on February 20, 1991, the Hearing Officer found the landlord liable for the sum of \$510.00 for removal of the back stairs and interior stair defects. In consolidated Case Nos. K002-75T and K001-95T, decision issued on April 18, 1990, the Hearing Officer deferred the September 1989 rent increase until ceiling leaks and a bedroom window were repaired; found the landlord liable for past reductions in housing services; and, granted a 5% continuing reduction of rent for a dysfunctional heater.

The landlord has repeatedly disregarded her responsibilities as set forth in the Rent Ordinance. The tenant has not received any monies from the landlord. The landlord owes a total of \$12,459.48. Finally, in June 1992, the tenant began to lawfully offset future rent payments. The landlord became abusive and proceeded to serve the tenant with a notice to vacate; she failed to appear at the properly noticed hearing on this matter.

RECOMMENDATION: To refer this matter to the District Attorney for investigation and possible prosecution and for the Eviction Unit to continue to monitor.

D. 230 Elmira Street M003-43E

This case involves an eviction for owner-occupancy. The Hearing Officer's decision was issued on October 2, 1992. On October 14, 1992, the tenant's attorney advised the Rent Board that a Stipulation for Judgment and Settlement Assignment was entered against the tenant in Municipal Court.

RECOMMENDATION: No further action.

E. 250 Taylor St. #33 M001-23E

This case involves a Report of Alleged Wrongful Eviction filed on July 26, 1991, alleging that the landlord has unlawfully refused to complete the renovation of the building since the tenant was asked to move out in November 1987.

In 1986, the landlord applied for a building permit to renovate the subject building. On December 17, 1986, after a tenant challenge, the Board of Permit Appeals approved the permit subject to several conditions affecting the tenant's displacement rights, including (a) payment of \$4,800 to the tenant for temporary relocation during the estimated 18-month renovation period; (b) landlord waiver of substantial rehabilitation exemption; and, (c) re-occupancy rent to be set

using capital improvements provisions of the Rent Ordinance.

The landlord has maintained that a series of events, including financial difficulties connected with reconstruction of the building, has delayed completion. At the hearing on the wrongful eviction report, he speculated that the renovation might be completed in six more months. No documentation was submitted to support his claims of difficulties encountered or his completion estimate. Two of his permits have expired.

EVALUATION: Five years have transpired and the landlord has failed to follow the procedures required to obtain an approved extension of time. He has further made no effort to document his claims for the delay in the completion of the work. In summary, he has failed to proceed in good faith, without ulterior reasons, and with honest intent.

RECOMMENDATION: To refer to the District Attorney for possible investigation regarding the delay in completion of the work.

MSC: To accept the recommendations of the Eviction Unit on the above cases.  
(Rossoff/Marshall: 5-0)

#### VIII. New Business

The Executive Director informed the Commissioners of the time frame for Proposition H to become law and concerns over the method for calculating the annual rate of rent increase. The Commissioners discussed this matter and requested guidance from the City Attorney.

#### IX. Remarks from the Public

A. One of the tenants involved in the case regarding Parkmerced asked whether more than one tenant could attend the meeting scheduled for November 19, 1992 at 2:00 p.m. The Commissioners answered in the affirmative but suggested that the group limit the number of tenant representatives to a few, preferably three persons.

B. A landlord inquired regarding the status of the proposed Statute of Limitations.

C. Al Goodwin raised one of the issues presented by Proposition H: in figuring the annual rent increase, presently the CPI only goes to one decimal. Under the new law, it appears that the rate permitted would have to be taken to the second decimal. Mr. Goodwin also suggested that the Landlord

Petition form for operating and maintenance expense increases be reviews in order to assist landlords in making the appropriate calculations.

XI. Appeal Hearings

4796 Mission Street #108

N001-19R

(cont. from 10/6/92)

This case originated from a landlord's petition based on increased operating expenses and capital improvement costs which was granted, in part. Tenant petitions asking for rent reductions due to conversion from steam to electric heat were also granted. Upon appeal from the landlord and tenants, the case was remanded on the issues of the amount of the rent reductions, and the effective dates for certain repairs. The tenants in one unit appealed the remand decision, stating that the approved rent increases and retroactive amounts owing present a financial hardship.

At their September 22, 1992, meeting the Commissioners voted to accept the appeal and schedule a Board hearing on the issue of financial hardship. On October 6, 1992, the tenant-appellant failed to appear at the properly noticed hearing. Staff was directed to contact the parties to determine if there were mitigating circumstances for the failure of the parties to appear. At the October 20, 1992 meeting, the Commissioners agreed that the case should be rescheduled.

The hearing began at 6:52 p.m. and ended at 7:22 p.m. The tenant appeared and represented himself with the aid of an interpreter, Leonor Solorzano; the landlord appeared and represented himself. After discussion and review of the evidence, the Commissioners passed the following motion:

MSC: In the interest of fairness and justice, to find hardship. The capital improvement passthrough is waived indefinitely until either party brings any change in circumstances to the attention of the Board. To allow the imposition of the 7% operating and maintenance passthrough effective January 1, 1993, which will bring the base rent to \$540.82 to allow the 8% annual increase as noticed beginning October 1, 1992, which will bring the base rent to \$505.44. The anniversary date will remain the same. (Rossoff/How: 5-0)

XII. Calendar Items

November 17, 1992

Executive Session

8 appeal considerations (1 cont. from 9/15/92)

6:00 Appeal Hearings: 3448 - 19th St. (N001-18A)  
(acpt. 10/20/92)

Old Business:

A. 1079 Clayton St. N001-05A (heard 9/15/92)

B. Proposition H

C. Statute of Limitations

November 24, 1992 - NO MEETING

December 1, 1992

9 appeal considerations (5 cont. from 11/10/92)

Public Hearing on Rules and Regulations

XIII. Adjournment

President Hammill adjourned the meeting at 8:20 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
November 17, 1992

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

AGENDA  
\*\*\*\*\*

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Executive Session  
Govt. Code Section 54956.9(a)&(b)
- V. Remarks from the Public
- VI. Consideration of Appeals
  - A. 1615 Jones St. N001-14A  
(cont. from 9/15/92)
  - B. 1100 Gough St. #4-E N001-27A
  - C. 57 Beideman Pl. N001-26A
  - D. 725 O'Farrell St. #26 N001-53R
  - E. 191 Frederick St. N001-28A
  - F. 4425 California St. #5 N001-29A
  - G. 847-849 & 851 North Point St. N001-54R thru N001-56R
  - H. 1370-B Utah Street N001-58R
- VII. Communications
- VIII. Director's Report
- IX. Old Business
  - A. 1079 Clayton St. N001-05A  
(heard 9/15/92)
  - B. Proposition H
  - C. Statute of Limitations
- X. Remarks from the Public (cont.)
- XI. New Business
- XII. Appeal Hearing  
6:00 3448 - 19th Street N001-18A  
(acpt. 10/20/92)
- XIII. Calendar Items
- XIV. Adjournment  
0210M







VIVIAN HAMMILL  
PRESIDENT

WILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
JAMIE HOW  
COLLY MARSHALL  
JAKE MCGOLDRICK  
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WILLIAM VILLA

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, November 17, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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I. Call to Order

President Hammill called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	Hammill; How; Marshall; Rossoff; Schlichtmann.
Commissioners not Present:	McGoldrick; Stephenson; Villa.
Staff Present:	Grubb; Wolf.

Commissioner Carrico appeared on the record at 5:40 p.m.;  
Commissioner Rossoff left the meeting at 6:40 p.m.

III. Consideration of Appeals

A. 1615 Jones St. #3 N001-14A (cont. from 9/15/92)

The tenant's petition regarding decreased housing services was granted in the original decision in this matter. The landlord appealed, alleging that certain of the conditions had been remedied, and the case was remanded to determine the termination dates for the rent reductions. As a result of the remand hearing, an Expedited Hearing Order was issued. The landlord filed an appeal of that Order, alleging that the hearing officer was incorrect as to the facts. The hearing officer asked, and the Board agreed, to reserve the landlord's appeal in order to allow her time to draft a complete decision, and to consider the landlord's appeal in light of a full remand decision.

The landlord appeals the remand decision, alleging that no evidence was produced at any of the hearings that showed the existence of new mildew problems in the bathroom; and that all of the defective conditions had been abated, as evidenced by a BBI report.

As the Commissioners did not receive a copy of the remand decision, it was the consensus of the Board to continue this case to the December 1st Board meeting.



B. 1100 Gough St. #4E

N001-27A

The tenants were granted rent reductions to correspond with the lack of reliable elevator service in this multi-story building. The landlord appeals, alleging that there is no service reduction, as there have been elevator problems since the inception of the tenancy; that the "landlords are attempting to deal with the problem as best they can"; and that the tenants filed the petition in anticipation of a future capital improvement passthrough.

MSC: To deny the appeal. (Schlichtmann/Marshall: 5-0)

IV. Executive Session

Pursuant to Government Code Section 54956.9(a) & (b), the Board went into Executive Session from 5:40 p.m. to 6:15 p.m. to discuss pending litigation with Deputy City Attorney Pennypacker.

V. Consideration of Appeals (cont.)

C. 57 Beideman Place

N001-26A

The tenants' petition regarding decreased housing services was granted, and the landlord was found liable for \$1,643.00 due to failure to repair the fireplace, carpeting, windows and drawers, and lack of regular maintenance of the building. The landlord appeals every issue except for the fireplace, maintaining that the tenants failed to meet their burden of proof.

MSC: To excuse Commissioner Rossoff from consideration of this appeal. (Rossoff/Marshall: 5-0)

MSC: To deny the appeal. (Marshall/Schlichtmann: 5-0)

D. 725 O'Farrell St. #26

N001-53R

The landlord's petition for certification of capital improvement costs for 24 units was granted by the hearing officer. One tenant appeals, alleging that the decision is unfair because of the high rate of interest and the fact that not all of the units received the same passthrough.

MSC: To deny the appeal. (Schlichtmann/Carrico: 5-0)

E. 191 Frederick St. #36

N001-28A

The tenant's original petition alleging substantial interference with the use and enjoyment of his unit due to noxious odors from the exhaust from the laundry facilities in the building was denied by the hearing officer, who found that the tenant had failed to

prove that the condition was sufficiently substantial to warrant a reduction in rent. Upon the tenant's appeal, the case was remanded for a new hearing with a new hearing officer. In the remand decision, the hearing officer found that the condition warranted a \$25 monthly reduction in rent. The landlord appeals the remand decision, asserting that there was no new evidence that justified the reversal on remand; that no other tenants in the same area of the building have complained; and that no Notice of Violation has been issued by BBI.

MSC: To deny the appeal. (Marshall/Hamill: 5-0)

F. 4425 California St. #5 N001-29A

The tenant's petition alleging a rodent problem in the unit was granted, and the landlord was found liable for \$85.00 per month until the mouse infestation was eradicated. The landlord had failed to appear at the properly noticed hearing, and submits a Declaration of Non-Receipt of Notice of Hearing upon appeal.

MSC: To accept the appeal and remand the case for a new hearing. (Schlichtmann/How: 5-0)

G. 847, 849 & 851 North Point St.  
N001-54R thru N001-56R

The landlord's petition for certification of the costs of a new roof for three units was granted. One tenant appeals, asserting that the landlord should be required to apportion the costs on a square footage basis, as one unit is significantly larger than the others.

As the tenant referred in his appeal to a submission of October 26, 1992, which could not be located in the file, it was the consensus of the Commissioners to continue this matter until the December 1st meeting in order to locate the document.

H. 1370-B Utah Street N001-58R

The tenant filed a petition alleging decreased housing services along with a Report of Alleged Wrongful Eviction, which were consolidated for hearing. As the tenant failed to appear at the properly noticed hearing, both actions were dismissed. The tenant appeals the dismissal of the decrease in services petition, claiming that his attorney advised him not to appear, because the attorney was unaware that the matters had been consolidated.

MSC: To accept the appeal and remand the decrease in services case for a new hearing.  
(Schlichtmann/Hamill: 5-0)

VI. Appeal Hearing

3448 - 19th Street

N001-18A

Three tenants filed petitions alleging that the master tenant is receiving more money upon the initial occupancy of the subtenants than the rent the master tenant is currently paying the owner, in violation of Ordinance Section 37.3(c). The hearing officer found the master tenant liable for \$3,700.00 in overpayments. The master tenant appealed, asserting that he provides services and amenities that justify the excess rent charged. He also claimed that Section 37.3(c) does not apply to him because he does not reside in the subject unit, which was the finding in a previous Board Decision on Appeal regarding another unit in the same building. The Commissioners accepted the master tenant's appeal and scheduled a hearing before the Board.

The master tenant appeared with a witness, the property manager for the building; two tenants also appeared, accompanied by a witness. None of the tenant-appellees subject to the hearing officer's decision currently reside on the premises. Testimony focused on housing services provided and interpretation of Ordinance Section 37.3(c) (the "Silver Amendment"). After discussion, the Commissioners passed the following motion:

MSC: To find the amount of rents charged in violation of the Silver Amendment but, due to the special circumstances of this case and in the interests of justice, to find no liability for refunds and to allow until January 1, 1993 for the situation to be rectified.  
(Schlichtmann/Marshall: 4-1; Carrico dissenting)

VII. Communications

The Board received the monthly workload statistics for October.

VIII. Director's Report

Executive Director Grubb reported that he will facilitate a meeting at the Rent Board office on Thursday, November 19th, between three representatives from Parkmerced management and three tenant representatives, in hopes of achieving resolution of the tenants' appeals.

IX. Old Business

A. 1079 Clayton Street

N001-05A (heard 9/15/92)

A letter was received from the landlord's attorney in this case, asking that the Board correct its decision in this matter, as the

property has been sold and the landlord should not be held responsible for sums collected by the new owner. A response from the tenant's attorney indicates that liability was part of a contract between the parties, and that the Board's decision is correct. Staff will contact the landlord's attorney to ascertain whether the decision should be corrected to read that amounts are owing from the landlord, rather than the landlord-appellant.

B. Proposition H

Staff distributed proposed draft language for regulations necessary for the implementation of Proposition H. A Public Hearing will be held on December 1, 1992.

C. Statute of Limitations

Commissioner Marshall will draft language to clarify that the 3-year limitation on rent refunds shall not affect any defense a tenant may have in an Unlawful Detainer action.

X. Approval of the Minutes

MSC: To approve the Minutes of November 10, 1992 with the following corrections: On page 10, the last paragraph shall read (corrections underlined): The Commissioners directed staff to consult the City Attorney as to whether, in the interests of fairness and justice, the Board can entertain hardship appeals when a substantial decrease in housing services claim is pending. This appeal is therefore continued until the City Attorney is consulted.

Additionally, the motion regarding the appeal hearing for the case at 4796 Mission Street #108 shall read as follows:

MSC: In the interests of fairness and justice, to find hardship in this case. The capital improvement passthrough is waived indefinitely until either party brings any change in circumstances to the attention of the Board. To allow the 4% annual increase as noticed effective July 1, 1991; the 4% annual increase as noticed effective July 1, 1992; and the 7% operating expense increase as noticed effective July 1, 1992. This will bring the base rent to \$540.26. As the tenant has been paying rent in the amount of \$468.00, the tenant owes the landlord \$658.20 for retroactive banked and annual increases unpaid through December, 1992. This

shall be offset against the \$805.00 the landlord will owe the tenant through December 1992 for decreased housing services due to a heating system conversion. The \$146.80 balance owed by the landlord to the tenant shall be deducted from the January, 1993 rent, for a one-time rental payment in the amount of \$393.46. Thereafter, the base rent shall be \$540.26 until imposition of the next allowable increase. The anniversary date remains July 1st. (Schlichtmann/Marshall: 5-0)

XI. Remarks from the Public

Al Goodwin raised several issues and made suggestions regarding the implementation of Proposition H.

XII. Calendar Items

November 24, 1992 - NO MEETING

December 1, 1992

11 appeal considerations (5 cont. from 11/10/92 and  
2 cont. from 11/17/92)

6:00 Public Hearing: Proposition H Regulations

December 8, 1992

3 appeal considerations

XIII. Adjournment

President Hammill adjourned the meeting at 8:50 p.m.







VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
December 1, 1992

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25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

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FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

NOV 20 2000

SAN FRANCISCO  
PUBLIC LIBRARY

- TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA
- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Consideration of Appeals

A. 16 Linda St. #6	N001-47R (cont. from 11/10/92)
B. Parkmerced	N001-24R thru N001-46R (cont. from 11/10/92)
C. 730 Eddy St. #105	N001-22A (cont. from 11/10/92)
D. 1279 Palou Ave.	N001-51R (cont. from 11/10/92)
E. 105 Lake St. #10	N001-50R (cont. from 11/10/92)
F. 1615 Jones St.	N001-14A (cont. from 11/17/92)
G. 847, 849 & 851 North Point St.	N001-54R thru N001-56R (cont. from 11/17/92)
H. 2780 - 22nd St.	N001-59R
I. 620 Miramar Ave.	N001-30A
J. 266 - 8th Ave. #3	N001-31A
K. 117 - 4th Ave.	N001-60R

- V. Communications
- VI. Director's Report
- VII. Consideration of Allegations of Wrongful Evictions
- VIII. Old Business
- IX. Remarks from the Public (cont.)
- X. New Business
- XI. Public Hearing
- 6:00 Proposition H: Proposed Rules and Regulations
- XII. Calendar Items
- IX. Adjournment

0212M





FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD

Tuesday, December 1, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

Commissioner Rossoff called the meeting to order at 5:40 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Carrico; How; Marshall; Rossoff.
Commissioners not Present:	Hammill; McGoldrick; Schlichtmann; Stephenson; Villa.
Staff Present:	Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of November 17, 1992.  
(Carrico/Marshall: 3-0)

IV. Consideration of Appeals

A. 16 Linda St. #6 N001-47R (cont. from  
11/10/92)

The landlord's petition for rent increases based on certification of capital improvement costs and comparable rents was granted by the hearing officer. One factor used in arriving at the amount of the comparables increase was the fact that the tenant's unit came with a garage. The tenant appealed the comparables increase and alleged that the garage is not legal.

This case was continued for two weeks in order for staff to contact the tenant to ascertain whether he was also appealing the increase on the basis of financial hardship. Staff confirmed that he was. However, upon information from the landlord, staff phoned the tenant and confirmed that he had vacated the premises. The tenant was requested to withdraw his appeal in writing, and the case was continued in order for him to do so. No withdrawal of appeal was received.

MSC: To deny the appeal. (How/Carrico: 3-0)

B. Parkmerced      N001-24R thru N001-46R  
(cont. from 11/10/92)

The landlord's petition for certification of the costs of installing new windows to 39 units was granted, in part, by the hearing officer. On appeal, the tenants in 23 units objected to the passthroughs, claiming that: as Parkmerced was legally required to replace the existing windows, the tenants should not have to bear the costs; the interest rate is usurious; and the work should be considered "maintenance", and not capital improvement.

This case was continued in order for the Executive Director to contact the landlord's representative regarding the possibility of settlement. On November 19, 1992, the Executive Director met with three representatives from Parkmerced, and three tenant representatives. At that meeting, Parkmerced's representatives offered to reduce the rate of interest to 5% and not pass through any "fix-up" costs. The tenants now request a further continuance of the appeal to mid-January in order to hold a meeting of the tenants' organization and consider the offer. In response, Parkmerced requests no further continuance of the appeal. It was the consensus of the Board to continue the case until the Board meeting two weeks from the date that calculations that show the fiscal impact of the landlord's offer become available to the tenants.

C. 730 Eddy St. #105      N001-22A  
(cont. from 11/10/92)

The tenant's petition alleging decreased housing services due to loss of closet and floor space as a result of reconfiguration of the unit was granted by the hearing officer. In addition, the rent increase for 1992 was found to be null and void. On appeal, the landlord contended that he did not receive notice of the hearing and submitted a Declaration of Non-Receipt of Notice.

The case was continued in order for staff to ascertain whether the landlord or anyone on his staff received notice at the mailing address on his letterhead and whether this is a proper mailing address. Staff sent a memorandum to the landlord at two different addresses, asking him to contact the Board and confirm his address, without response.

MSC:      To deny the appeal. (Carrico/How: 3-0)

D. 1279 Palou Ave.

N001-51R

(cont. from 11/10/92)

The tenant's petition alleging decreased housing services was dismissed with prejudice because she failed to appear or to file a written excuse for non-appearance. The tenant appealed on the basis that she had a car accident on the way to the hearing. The case was continued in order for the tenant to submit a declaration under oath regarding her failure to appear, which she did.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/How: 3-0)

E. 105 Lake St. #10

N001-50R

(cont. from 11/10/92)

The tenant's petition alleging decreased housing services was denied by the hearing officer because of the doctrine of res judicata. In 1985, the landlord was granted a capital improvement passthrough for costs associated with a new roof and conversion of steam heat to electrical heat. The tenant was granted a \$22.00 per month reduction in base rent for the heat conversion pursuant to the stipulation of the parties. That decision was not appealed by either party. The tenant currently appeals on the basis of hardship; and that she was not informed that the amount of the reduction could not be modified in the future. This case was continued in order to consult with the City Attorney regarding whether the Board can entertain hardship appeals when a substantial decrease in services claim is pending.

MSC: To excuse Commissioner Carrico from consideration of this appeal. (Marshall/Carrico: 3-0)

MSF: To deny the appeal. (Rossoff/How: 2-1; Marshall dissenting)

Pursuant to Section 2.12 of the Rules and Regulations, which requires that a motion be passed by a majority of the Commissioners, consideration of this matter was continued for one week.

F. 1615 Jones St.

N001-14A

(cont. from 11/17/92)

The tenant's petition regarding decreased housing services was granted in the original decision in this matter. The landlord appealed, alleging that certain of the conditions had been remedied, and the case was remanded to determine the

termination dates for the rent reductions. As a result of the remand hearing, an Expedited Hearing Order was issued. The landlord filed an appeal of that Order, alleging that the hearing officer was incorrect as to the facts. The hearing officer asked, and the Board agreed, to reserve the landlord's appeal in order to allow her time to draft a complete decision, and to consider the landlord's appeal in light of a full remand decision.

The landlord appeals the remand decision, alleging that no evidence was produced at any of the hearings that showed the existence of new mildew problems in the bathroom; and that all of the defective conditions had been abated.

MSC: To deny the appeal. (Marshall/How: 3-0)

G. 847, 849 & 851 North Point Street  
N001-54R thru N001-56R (cont. from 11/17/92)

The landlord's petition for certification of the costs of a new roof for three units was granted. One tenant appeals, asserting that the landlord should be required to apportion the costs on a square footage basis, as one unit is significantly larger than the others.

MSC: To deny the appeal. (Carrico/How: 3-0)

H. 2780 - 22nd St. N001-59R

The tenant's appeal of a capital improvement passthrough on the basis of financial hardship was filed nineteen days late with no excuse for late filing. As the tenant is 97 years old and may be Spanish-speaking, the case was continued for one week in order for staff to contact the tenant and find out why the appeal was filed untimely.

I. 620 Miramar Ave. N001-30A

The tenants' petition regarding decreased housing services was granted, in part, by the hearing officer and the landlord was found liable in the amount of \$1,995.00 for: loss of interior access to the garage and laundry facilities; loss of quiet enjoyment of the unit, a single family dwelling, during a period of construction work and occupancy of a downstairs unit by the landlord's relatives; reduction in garage space due to the landlord's stored possessions; and lack of a working garage door opener. The landlord appeals the 5-month rent reduction for the period of the construction, alleging that the work only occurred on nineteen days.

MSC: To deny the appeal. (Marshall/How: 3-0)



J. 266 - 8th Ave. #3

N001-31A

The tenant's petition alleging decreased housing services was granted only as to a \$20.00 monthly rent reduction due to the lack of a working dishwasher. Although the dishwasher was in need of repair at the time the tenancy commenced, the tenant credibly testified that the landlord had promised to fix the appliance upon request. On appeal, the landlord asserts that no such promise had been made, and that the tenant had never requested the repair.

MSC: To deny the appeal. (Marshall/How: 3-0)

K. 117 - 4th Ave.

N001-60R

As a result of a petition filed in 1990, the tenant was granted rent reductions due to decreased housing services and the landlord's annual and banked rental increases were deferred due to a failure to make requested repairs. In the instant case, the hearing officer found that further rent reductions were not warranted, and that a \$50 monthly rent reduction for gardening services could be revoked, as the service was no longer being rendered. The continuing failure to repair claim was granted, as there are still outstanding code violations on the property. The tenant appeals, asserting that the evidence showed that further rent reductions should be granted; that an addendum to her lease prohibits any change in the terms; and that the imposition of any additional increase in rent would subject her to extreme hardship.

MSC: To deny the appeal. (Carrico/How: 3-0)

#### V. Public Hearing

From approximately 6:15 p.m. until 8:15 p.m., the Board held a Public Hearing regarding issues concerning the implementation of Proposition H. Several individuals voiced their concerns regarding the fairness of implementation as of December 8, 1992, as opposed to March 1, 1993. Staff distributed draft language for changes to Section 1.12, specifically setting out the procedure for calculating the CPI increase and permitting rounding the allowable amount up or down to the nearest single digit; two alternatives for "locking in" the allowable amount as of the anniversary date, should that fall prior to December 8th; and a new section, 4.10(d), which would serve to correct rather than null and void 4% increases issued during the "window period" prior to March 1, 1993. After lengthy discussion, the Board continued the Public Hearing to December 8, 1993 for further testimony and advice from the City Attorney.

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a memorandum from the Civil Service Commission postponing implementation of the new Managerial Performance Appraisal System.

VII. Director's Report

Executive Director Grubb reported as follows:

A. In a case concerning the Ellis Act, Channing v. Berkeley Rent Board, the Superior Court ruled against the City of Berkeley's imposition of a flat relocation fee, and the requirement that tenants be given 6 months notice prior to having to move.

B. A 24 hour "Hot Line" has been established for information concerning Proposition H, 703-6320.

VIII. Remarks from the Public

Michael Harney, of the Tenants' Union, inquired as to the status of the proposed Statute of Limitations.

IX. Old Business

Commissioner Marshall distributed draft language to clarify that the proposed Statute of Limitation's 3-year limitation on rent refunds shall not affect any defense a tenant may have in an Unlawful Detainer action.

X. New Business

Upon receipt of a Stipulated Judgment in the case of Scharf v. S.F. Rent Board (Superior Court Case No. 938-779), the Commissioners passed the following motion:

MSC: To set aside the Board's decision in this matter and schedule the case for a Board hearing on December 15, 1992.  
(Marshall/How: 3-0)

XI. Calendar Items

December 8, 1992

Executive Session: Proposition H

9 appeal considerations (2 cont. from 12/1/92)

6:00 Public Hearing: Proposition H Regulations  
(cont. from 12/1/92)

December 15, 1992

3 appeal considerations

6:00 Appeal Hearing: 2837 - 23rd Street (M001-10A)  
(acpt. 12/1/92)

December 22, 1992 - NO MEETING

December 29, 1992 - NO MEETING

XII. Adjournment

Commissioner Rossoff adjourned the meeting at 8:50 p.m.





NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
December 8, 1992

FRANK M. JORDAN  
MAYOR

VIVIAN HAMMILL  
PRESIDENT

\*\*\*\*\*  
25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

JILL SCHLICHTMANN  
VICE-PRESIDENT

\*\*\*\*\*  
AGENDA  
\*\*\*\*\*

I. Call to Order

II. Roll Call

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

III. Approval of the Minutes

IV. Executive Session  
Govt. Code Section 54956.9(a)&(b)

V. Remarks from the Public

VI. Consideration of Appeals

A.	105 Lake St. #10	N001-50R (cont. from 12/1/92)
B.	2780 - 22nd Street	N001-59R (cont. from 12/1/92)
C.	2036 Green Street #4	N001-61R
D.	2548 Sutter Street	N001-32A
E.	24 Alder St.	N001-33A
F.	700 - 29th Avenue #8	N001-62R
G.	1359 - 8th Avenue	N001-35A & N001-63R
H.	466 Frederick St. #4	N001-34A
I.	507, 509 & 511 Dolores St.	N001-36A

VII. Communications

VIII. Director's Report

IX. Consideration of Allegations of Wrongful Evictions

X. Old Business

XI. Remarks from the Public (cont.)

XII. New Business

XIII. Public Hearing (cont. from 12/1/92)

6:00 Proposition H: Proposed Rules and Regulations

XIV. Calendar Items

XV. Adjournment  
0215M





FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, December 8, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

I. Call to Order

President Hammill called the meeting to order at 5:45 p.m.

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

II. Roll Call

Commissioners Present:	Carrico; Hammill; Marshall; McGoldrick; Schlichtmann.
Commissioners not Present:	How; Rossoff; Stephenson; Villa.
Staff Present:	Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of December 1, 1992.  
(Carrico/Marshall: 4-0)

IV. Consideration of Appeals

A. 105 Lake Street #10 N001-50R  
(cont. from 12/1/92)

The tenant's petition alleging decreased housing services was denied by the hearing officer because of the doctrine of res judicata. In 1985, the landlord was granted a capital improvement passthrough for costs associated with a new roof and conversion of steam heat to electrical heat. The tenant was granted a \$22.00 per month reduction in base rent for the heat conversion pursuant to the stipulation of the parties. That decision was not appealed by either party. The tenant currently appeals on the basis of hardship; and that she was not informed that the amount of the reduction could not be modified in the future.

As there were no landlord representatives present who could vote on this case, it was the consensus of the Board to continue this matter for one week.



B. 2780 - 22nd Street

N001-59R  
(cont. from 12/1/92)

The tenant's appeal was filed nineteen days late with no excuse for late filing. As the tenant is 97 years old and Spanish-speaking, the case was continued in order to staff to contact the tenant and find out the reason for the untimely filing. The tenant's son submits a declaration stating that upon receipt of a Notice of Action on Appeal denying the landlord's appeal, the tenant had mistakenly thought that his appeal had been denied.

MSC: To find good cause for the late filing of this appeal. (Schlichtmann/Marshall: 4-0)

The tenant appeals the hearing officer's decision certifying a capital improvement passthrough on the basis of financial hardship.

MSC: To accept the appeal and schedule a Board hearing on the issue of tenant hardship.  
(Marshall/McGoldrick: 4-0)

C. 2036 Green Street #4

N001-61R

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer, and the landlord was found liable in the mount of \$20.00 per month due to the loss of the tenant's storage space. On appeal, the tenant alleges that the base rent amount listed in the decision is incorrect; and that the storage area, three large rooms, is worth \$200.00 per month.

MSC: To accept the appeal and remand the case for a new hearing on the issue of the value of the storage space and for a numerical correction regarding the amount of the base rent.  
(Marshall/McGoldrick: 4-0)

D. 2548 Sutter Street

N001-32A

The appeal was filed 9-1/2 weeks late because the landlord did not receive a copy of the Notice of Hearing or Decision of Hearing Officer, and only found out about the decision because of the receipt of a demand letter from an attorney.

MSC: To find good cause for the late filing of the appeal. (Marshall/Schlichtmann: 4-0)

The tenant's petition regarding decreased housing services was granted, in part, by the hearing officer. The landlord failed to appear at the hearing and claims on appeal not to have received notice of the hearing. He submits a Declaration of Non-Receipt of Notice in support of his claim, and a prior case at the Rent Board shows a different address for the landlord.

MSC: To accept the appeal and remand the case for a new hearing. (Marshall/Schlichtmann: 4-0)

E. 24 Alder Street N001-33A

The tenant's petition alleging decreased housing services was granted by the hearing officer. The landlord (master tenant) failed to appear at the properly noticed hearing, and claims not to have received notice of the hearing. He submits a Declaration of Non-Receipt of Notice of Hearing in support of his claim, and alleges on appeal that the tenant's allegations are untrue.

MSC: To accept the appeal and remand the case for a new hearing. (Carrico/Schlichtmann: 4-0)

F. 700 - 29th Avenue #8 N001-62R

The tenant's petition alleging the landlord's failure to make requested repairs was denied, as the hearing officer found that the tenant failed to prove that the conditions constituted violations of State or local law. The tenant appeals, alleging that the hearing officer was biased against him, that the landlord lied at the hearing, and that Rent Board staff engaged in a conspiracy to deny him his due process rights.

MSC: To deny the appeal.  
(Schlichtmann/Carrico: 4-0)

G. 1359 - 8th Avenue N001-35A & N001-63R

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable in the amount of \$1,970.00 for corresponding rent reductions. The landlords appeal, alleging that a bathroom sink had not been promised prior to commencement of the tenancy; that repair attempts had been thwarted by the tenants' insistence on 24-hour notice; and that these and other tenants on the property had contributed to the conditions by removing the mailbox and dumping debris behind the garage. The tenants also appeal, asserting that due to long-term verifiable notice to the landlords, the rent reductions should commence as of an earlier date.

MSC: To accept the tenant's appeal and remand the case on the issues of: when the rent reductions for the decreased services should commence; the denial of rent reductions for the refrigerator and carpet considering that the landlord states in his appeal that he promised both items; and whether a rent reduction is warranted for the period prior to the tenant's engaging in self-help to fix the stove.  
(Marshall/Schlichtmann: 4-0)

MSC: To deny the landlord's appeal.  
(Marshall/McGoldrick: 4-0)

H. 466 Frederick Street #4 N001-34A

The landlord's appeal was filed two days late because the landlord assumed that the deadline applied to the date of mailing, and not the date the appeal must be received at the Rent Board office.

MSC: To find good cause for the late filing of the appeal. (Carrico/Schlichtmann: 4-0)

The tenant's petition alleging the landlord's failure to make requested repairs was granted, in part, by the hearing officer, and annual and banked increases were ordered deferred until the bathroom and bedroom were painted. The landlord appeals, alleging that the deadline for closing of the record in the case was extended without his knowledge, and that the Notice of Violation submitted by the tenant was erroneous.

MSC: To deny the appeal.  
(Marshall/Schlichtmann: 4-0)

I. 507, 509 & 511 Dolores St. N001-36A

The landlord's petition for rent increases based on increased operating expenses was denied, because the landlord's inadequate documentation and improper calculations made it impossible for the hearing officer to determine the categories of insurance and debt service. On appeal, the landlord submits different documentation as to his debt service.

MSC: To accept the landlord's appeal and remand the case to the same hearing officer for a new hearing. (Marshall/Schlichtmann: 4-0)

V. Public Hearing (cont. from 12/1/92)

From approximately 6:25 p.m. until 9:30 p.m., the Board continued their Public Hearing regarding the implementation of

Proposition H. 18 individuals, primarily from tenants' organizations, voiced their concerns. As December 8th has been established as the effective and implementation date, most of the testimony concerned how to deal with 4% increases that are given during the "window period", December 8, 1992 through February 28, 1993. Following testimony and lengthy discussion, the Board approved the following amended Rules and Regulations:

Section 1.12 Annual Rent Increase

(a) Where a landlord is entitled to an annual rent increase to be effective from December 8, 1992 through February 28, 1993, the allowable amount of increase is 1.6%. Thereafter, the annual allowable increase determined by the Board shall become effective each March 1, and shall be no more than 60% of the percentage increase in the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose region as published by the U.S. Department of Labor for the 12 month period ending November 30. In determining the allowable percentage rent increase, numbers of .04 and below shall be rounded down to the nearest tenth decimal place, and numbers of .05 and above shall be rounded up to the nearest tenth decimal place. In no event, however, shall the allowable annual increase be greater than seven percent (7%). The Rent Board shall publish the annual allowable increase amount on or about January 1. The published increase shall be determined only once for each 12 month period and shall remain in effect until the next scheduled recalculation.

(b) Where a landlord was entitled to an annual rent increase between March 1, 1992 and December 7, 1992, the allowable amount of increase is 4%. If a landlord did not impose the 4% increase to which the landlord was entitled during the period March 1, 1992 to December 7, 1992, the landlord may impose the increase at any time prior to two years from the effective date of the last annual increase.

(c) Where a landlord is entitled to an annual rent increase to be effective from December 8, 1992 through February 28, 1993, the allowable amount of increase is 1.6%. Any notice of rent increase which imposes only a 4% or less annual increase effective during the above period is lawful in the amount of 1.6%, and only that portion of the increase above 1.6% is null and void, provided that the increase is given in good faith without knowledge of the effective date of Proposition H. Nothing in this

Regulation shall affect any banking rights that the landlord may have.

(d) For rent increases effective during the period December 8, 1992 through February 28, 1993, where a tenant has received a notice of increase in excess of the allowable amount but has not yet paid the requested amount, the notice shall be null and void. Nothing in this Regulation shall affect any banking rights that the landlord may have.

MSC: To adopt the above Regulations, effective December 8, 1992. (Marshall/Schlichtmann: 3-1; McGoldrick dissenting)

VI. Director's Report

Executive Director Grubb informed the Commissioners that the tenants at Parkmerced have requested the District Attorney to look into their case. He also requested that the Commissioners bring some non-perishable food item to next week's meeting in conjunction with the Food Bank drive.

VII. Remarks from the Public

Robert Pender from the Parkmerced Tenants' Organization (PRO) informed the Commissioners that PRO will be glad to take responsibility for informing their membership regarding any changes in the rent law, now and in the future.

VIII. Old Business

The Rent Board Christmas Party will be held on December 19th at Commissioner Schlichtmann's house. All staff are invited; details will be worked out at next week's meeting.

IX. Calendar Items

December 15, 1992

4 appeal considerations (1 cont. from 12/8/92)

6:00 Appeal Hearing: 2837 - 23rd Street (M001-10A)  
(acpt. 12/1/92)

December 22, 1992 - NO MEETING

December 29, 1992 - NO MEETING

X. Adjournment

President Hammill adjourned the meeting at 9:45 p.m.



VIVIAN HAMMILL  
PRESIDENT

JILL SCHLICHTMANN  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF THE SAN  
FRANCISCO RESIDENTIAL RENT STABILIZATION  
& ARBITRATION BOARD, Tuesday, 5:30 p.m.  
December 15, 1992

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

\*\*\*\*\*

25 Van Ness Avenue, #70, Lower Level  
\*\*\*\*\*

AGENDA

\*\*\*\*\*

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

- A. 105 Lake St. #10 N001-50R  
(cont. from 12/8/92)
- B. 1112 Church Street N001-37A
- C. 3346 22nd Street #B N001-38A
- D. Stonestown N001-64R thru N001-71R

- VI. Communications
- VII. Director's Report
- VIII. Consideration of Allegations of Wrongful Evictions
- IX. Old Business
- IV. Remarks from the Public (cont.)
- X. New Business
- XI. Appeal Hearing
- 6:00 2837 - 23rd Street N001-10A  
(acpt. 12/1/92)
- XII. Calendar Items
- IX. Adjournment

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VIVIAN HAMMILL  
PRESIDENT

WILL SCHLICHTMANN  
VICE-PRESIDENT

TIM CARRICO  
MAMIE HOW  
POLLY MARSHALL  
JAKE MCGOLDRICK  
MICHAEL ROSOFF  
DENICE STEPHENSON  
WILLIAM VILLA

MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO  
RESIDENTIAL RENT STABILIZATION AND ARBITRATION BOARD  
Tuesday, December 15, 1992 at 5:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level  
\*\*\*\*\*

FRANK M. JORDAN  
MAYOR

JOSEPH GRUBB  
EXECUTIVE DIRECTOR

I. Call to Order

President Hammill called the meeting to order at 5:39 p.m.

II. Roll Call

Commissioners Present:	Carrico; Hammill; How; Marshall; Rossoff; Schlichtmann.
Commissioners not Present:	McGoldrick; Stephenson; Villa.
Staff Present:	Grubb; Ruiz.

Commissioner Schlichtmann left the meeting at 6:35 p.m. and  
Commissioner Carrico at 6:37 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 8, 1992.  
(Marshall/Schlichtmann: 5-0)

IV. Consideration of Appeals

A. 105 Lake Street #10 N001-50R  
(cont. from 12/8/92)

The tenant's petition alleging decreased housing services was denied by the hearing officer because of the doctrine of res judicata. In 1985, the landlord was granted a capital improvement passthrough for costs associated with a new roof and conversion of steam heat to electrical heat. The tenant was granted a \$22.00 per month reduction in base rent for the heat conversion pursuant to the stipulation of the parties. That decision was not appealed by either party. The tenant currently appeals on the basis of hardship; and that she was not informed that the amount of the reduction could not be modified in the future

MSC: To excuse Commissioner Carrico from consideration  
of this appeal. (Marshall/Schlichtmann: 5-0)

MSC: To deny the appeal. (How/Rossoff: 3-2;  
Hammill, Marshall dissenting)



B. 1112 Church Street #10 N001-37A

The tenant's petition alleging decreased housing services, failure to repair and maintain, and unlawful rent increases was granted, in part, by the Hearing Officer. The landlord was found liable to the tenant for rent overpayments totalling \$6,421.00, resulting from null and void rent increases imposed since 1985. On appeal, the landlord makes the following arguments: (1) newly discovered evidence would put rent increases in 1986 and 1987 within the Ordinance limitations; (2) California Code of Civil Procedure Section 338(a) precludes the Board from determining rent overcharges for more than three (3) years; and (3) the landlord's liability should be limited in the interest of fairness and justice.

MSC: To accept the appeal and remand the case for a new hearing to determine the base rent in 1984 in light of the new evidence.  
(Rossoff/Schlichtmann: 5-0)

C. 3346 - 22nd Street #13 N001-38A

The tenant's petition alleging a failure to repair and maintain and an increase in rent over the allowable limits was granted by the Hearing Officer. On appeal, the landlord asserts that he has effectuated all of the repairs.

MSC: To excuse Commissioner Rossoff from consideration of this appeal. (Schlichtmann/How: 5-0)

MSC: To deny the appeal. (Marshall/Schlichtmann: 5-0)

D. Stonestown N001-64R through N001-71R

The landlord's petition for certification of capital improvement costs was granted by the Hearing Officer. Eight tenants appealed on the basis of financial hardship, and alleged that: some of the work should be considered operating and maintenance expenses; the passthrough has resulted in a decrease in services; and the passthrough violated the Rent Ordinance because long-term tenants now pay rents in excess of market rents.

MSC: To accept the appeals on the issue of tenant hardship. Evidence will be accepted on the issue of comparable rents of vacant units within the same complex. (How/Schlichtmann: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following:

A. An invitation from the Mayor to attend a holiday celebration.

B. The appeal decisions for the following cases were approved by the Board and signed by President Hammill.

1. 6796 Mission Street, Appeal No. N001-19R
2. 1440 Taraval St. #3, Appeal No. N001-16A
3. 3448 - 19th Street, Appeal No. N001-18A

C. Directions to Commissioner Schlichtmann's home, where the Rent Board Christmas party will be held.

VI. Director's Report

Executive Director Grubb reported as follows:

A. The average rate of absenteeism for Rent Board Personnel is 2.17 for the 5 month period, which is the median for City departments.

B. A new Civil Service Commission policy allows Department Heads to put personnel on unpaid administrative leave for up to thirteen (13) days in order to close budget deficits.

C. Legislation for a supplemental appropriation to fund to Prop. H notification of rental property owners is being processed now. Mailing will be the first week in January if the mail room is available.

VII. New Business

A. The Executive Director discussed a letter from the representative for Project Artaud requesting that Section 1.15(b) of the Rules and Regulations regarding the exemption for dwelling units in a non-profit cooperative be amended in a manner which would allow this project to be exempt from the Rent Ordinance. The Commissioners discussed this matter agreed to look at possible language. The matter was continued to the next Board meeting.

B. The Commissioners expressed a desire to discuss the issue of "trusts" as it relates to evictions.

VIII. Calendar Items

December 22, 1992 - NO MEETING.

December 29, 1992 - NO MEETING.

January 5, 1993

1 appeal consideration

Appeal Hearings:

6:00 2780 - 22nd St.

N001-59R (acpt. 12/8/92)

6:30 2837 - 23rd St.

N001-10A (acpt. 12/1/92;

post. from 12/15/92)

Old Business:

A. Project Artaud

B. Eviction

IX. Adjournment

President Hammill adjourned the meeting at 7:00 p.m.









